SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1959

No. 667

UNITED STATES, PETITIONER

vs.

CURTIS M. THOMAS, REGISTRAR OF VOTERS OF WASHINGTON PARISH, LOUISIANA, ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR CERTIORARI FILED JANUARY 29, 1960

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1 In the United States District Court for the Eastern District of Louisiana New Orleans Division

No. 9146, Civil Action

UNITED STATES OF AMERICA

versus

DIAZ D. MCELVEEN, ET AL.

Caption

Appearances: Jack P. F. Gremillion, Attorney General—State of Louisiana; M. E. Culligan, John E. Jackson, Weldon A. Cousins, William P. Schuler, Henry J. Roberts, Jr., Assistant Attorney Generals; France W. Watts, Jr., Personal Attorney for Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana, Attorneys for Appellant; Joseph M. F. Ryan, Jr., Acting Assistant Attorney General; M. Hepburn Many, United States Attorney, Attorneys for Appellee.

Appeal from the District Court of the United States for the Eastern District of Louisiana, to the United States Court of Appeals for the Fifth Circuit, returnable within forty (40) days from the 15th day of January, 1960, at the City of New Orleans, Louisiana.

2 In United States District Court

Complaint

Filed June 29, 1959

The United States of America, plaintiff, brings this suit against Diaz D. McElveen, E. Ray McElveen, Saxon Farmer, and Eugene Farmer, individually and as members of the White Citizens Council of Washington Parish, Louisiana (hereinafter referred to as the Individual Defendants); Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana (hereinafter referred to as the Defendant Registrar); and the White Citizens Council of Washington Parish, Louisiana (hereinafter referred to as the Defendant Citizens Council) and alleges that:

1. This action is brought under Part IV of the Civil Rights Act of 1957 (P.L. 85-315, 71 Stat. 634; 42 U.S.C. Sec. 1971) to obtain relief as provided for in said statute against acts and

practices by the defendants which would deprive other persons of rights and privileges secured by subsection (a) of Section 1971 of Title 42 of the United States Code; namely, the right and privelege of citizens of the United States who are otherwise qualified by law to vote at any election by the people in the State of Louisiana and Washington Parish to be entitled and allowed to vote at all such elections without distinction of race or color.

2. This Court has jurisdiction of this action under 42 U.S.C. Sec. 1971(d) and under 28 U.S.C. Sec. 1345.

3. Under the laws of the State of Louisiana, registration is a prerequisite to voting in any election. In Washington Parish, Louisiana, registration is permanent and a registered voter is not required to register unless his name is cancelled from the registration rolls in accordance with law.

4. At the times indicated below the numbers of persons registered to vote in Washington Parish were as follows: October 6, 1956: 1843 Negroes, 15,529 white persons; November 4, 1958; 1517 Negroes, 11,444 white persons; and June 16, 1959; 236 Negroes, 11,436 white persons.

5. The substantial decline in the number of Negroes registered to vote in Washington Parish which occurred between the dates November 4, 1958, and June 16, 1959, as detailed in Paragraph 4, resulted from the acts and practices described hereinafter of the defendants by which—in violation of 42 U.S.C. Sec. 1971 (a) and (c), and in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States—Negroes were deprived of the right to vote because of their race and color.

6. The Individual Defendants are registered voters of Washington Parish, Louisiana, and are officers and members of the Defendant Citizens Council.

7. Under Section 245, Title 18, Louisiana Revised Statutes, 1950 (the full text of which appears in Appendix A), which is applicable to parishes which have adopted the permanent registration system and which, therefore, is applicable to Washington Parish, any two bona fide registered voters of the parish are vested with authority to file affidavits with the registrar of voters challenging the right of any persons to remain on the registration rolls. It is made mandatory by said statute that, upon the filing of such affidavits, the reg-

istrar shall notify by mail the persons thus challenged by sending to them a printed citation requiring them to appear in person at the registrar's office within ten days and prove, by written affidavit of three bona fide registered voters, their right to remain on the registration rolls.

8. By this statutory provisions, Section 245 vests in registered voters authority to perform the state functions of investigating and making an initial determination whether persons are qualified to vote, and of requiring persons who have already been adjudged qualified voters by the registrar of voters, to come forward and prove their right to remain registered voters. By said section, registered voters are constituted agents of the State for the purpose of performing said state functions.

9. During the period November 4, 1958, and June 16, 1959, and particularly the last four months of said period, the Individual Defendants, acting as agents of the State of Louisiana pursuant to and under the authority of Title 18, Section 245, of the Louisiana Revised Statutes, 1950 hereinabove referred to, filed with the office of the Defendant Registrar 1377 affidavits challenging the legality of the registration status of Negro voters and ten affidavits challenging the registration statute of white voters.

10. The affidavits of challenge referred to in Paragraph 9 were almost without exception based on minor technical deficiencies in the registration records, such as minor misspellings, petty deviations from printed instructions, failure to compute age with exact precision, and allegedly illegible handwriting.

11. In examining the Washington Parish registration records for the purpose of filing the affidavits of challenge referred to in Paragraph 9, the Individual Defendants limited their examination almost exclusively to the registration records of Negro voters while making only a token examination of the registration records of white voters.

12. The Individual Defendants in examining the Washington Parish registration records for the purpose of filing the affidavits of challenge referred to in Paragraph 9, relied upon the slightest technical deficiencies, including those described in Paragraph 10, which they found in the records of Negro voters upon which to base the challenges. At the same time, the Individual Defendants exercised virtually no challenges of white voters whose registration records the Individual De-

fendants knew or should have known contained technical deficiencies similar to those which formed the basis for the challenge of the Negroes.

13. As a result of the acts and practices of the Individual Defendants, as described in Paragraphs 9 through 12, the names of those voters whom they challenged were
6 stricken from the registration rolls of Washington Parish. Among the Negro voters whose names were thus stricken were:

William Bailey, Jr.
408 Church Street
Bogalusa, Louisiana

James Cyrus
546 Avenue "U"
Bogalusa, Louisiana

Joe Dean
638 Avenue W
Bogalusa, Louisiana

J. D. Godbolt
725 Avenue T
Bogalusa, Louisiana

Rev. W. M. Granderson
420 Church Street
Bogalusa, Louisiana

Robert Hicks
924 East 9th Street
Bogalusa, Louisiana

Mrs. Allie Mae Moses Johnson
638 1st Avenue
Bogalusa, Louisiana

Willie C. Monk
507 Church Street
Bogalusa, Louisiana

Sam Myles
657 Avenue S
Bogalusa, Louisiana

Mrs. Geraldine Maddox Page
1007 So. Dauphine Street
Bogalusa, Louisiana

Moses Richmond
804 Dauphine
Bogalusa, Louisiana

Rev. Frank C. Shumake
819 East 9th Street
Bogalusa, Louisiana

Henry Sims
665 2d Avenue
Bogalusa, Louisiana

Mrs. Ethel A. Smith
920 East 7th Street
Bogalusa, Louisiana

Lionel Verdin
521 First Avenue
Bogalusa, Louisiana

Albert Z. Young
834 East 7th Street
Bogalusa, Louisiana

Samuel Rogers
Rte. 1 Box 138A
Varnado, Louisiana

Albert Wilson
928 17th Street
Franklinton, Louisiana

14. The acts and practices described in Paragraphs 9 through 12 were engaged in by the Individual Defendants while acting as agents of, and under authority of the law of the State of Louisiana and in accordance with the prevailing custom and usage in said State, all for the purpose and with the effect of depriving Negroes solely because of their race
7 or color of their right to register and vote.

15. By the acts and practices described in Paragraphs 9 through 12, the Individual Defendants prevented the Defendant Registrar from performing his duty under 42 U.S.C. Sec. 1971(a), and under the Fourteenth and Fifteenth Amendments to the Constitution of the United States, of administering the registration laws without distinction based on race or color; and said Individual Defendants thereby subverted the capacity of the office of the Defendant Registrar to function in accordance with law.

16. The Defendant Registrar assumed office in September 1949, and has been acting in that capacity up to the time of the filing of this complaint. Under the laws of Louisiana, said Defendant Registrar in his official capacity is responsible, among other things, for registering all qualified applicants for registration, for keeping and preserving all registration records, and for cancelling from the registration rolls the names of all voters who lose their right to remain on the rolls.

17. When the affidavits of challenge referred to in Paragraph 9 were filed with the Defendant Registrar, he knew that said affidavits related almost exclusively to Negro voters; that the purpose of said affidavits was to effect discrimination based on race or color against Negro voters; and that the said affidavits related to technical deficiencies equally applicable to many white voters against whom affidavits of challenge were not filed.

8 18. In response to the filing of affidavits of challenge referred to in Paragraph 9, and, acting pursuant to and under the authority of Title 18, Sec. 245, of the Louisiana Revised Statutes, 1950, the Defendant Registrar—notwithstanding his knowledge as alleged in Paragraph 17 hereof of the discriminatory purpose and effect of said affidavits of challenge—mailed or caused to be mailed Citations to Appear to the persons whose registration status had thus been challenged. Said Citations require those challenged to appear at the Defendant Registrar's office within ten days to prove their right

to remain on the registration rolls. Said Defendant Registrar, following intermediate legal proceedings, subsequently cancelled all the names of the voters thus challenged from the registration rolls.

19. By the acts described in Paragraph 18, Defendant Registrar participated in and imparted the authority of his office to the illegal acts and practices described in Paragraphs 9 through 12 which were engaged in by the Individual Defendants as agents of the State of Louisiana, and acting under the authority of the laws of that State.

20. Defendants Citizens Council is incorporated under the laws of the State of Louisiana; and is domiciled in Washington Parish, Louisiana. One of its purposes is to maintain racial segregation in said state.

21. Defendant Citizens Council at all times pertinent to this Complaint was acting pursuant to a state-wide program of allied organizations for the removal of Negroes from the voting rolls.

22. The acts and practices described in Paragraphs 9 through 15, which were engaged in by the Individual Defendants as agents of the State and under the authority of state law, were carried out at the direction of and under the control of the Defendant Citizens Council, of which the Individual Defendants are officers and members.

23. There are reasonable grounds to believe that, unless enjoined by this Court, the Defendant Registrar will continue to treat as valid the challenges to voters based on race or color as described in this Complaint, which challenges have resulted in the removal of the names of Negro voters from the registration rolls of Washington Parish; that said Defendant Registrar will not restore to the registration rolls of said Parish any of those persons whose names have been illegally removed therefrom unless they qualify for registration de novo; and that the Defendants will continue to engage in illegal acts and practices the same as or similar to those set forth in this Complaint.

Wherefore, Plaintiff respectfully prays:

(a) That this Court issue a permanent injunction.

(1) enjoining the Individual Defendants individually and as members of the Defendant Citizens Council, and enjoining the Defendant Citizens Council and all officers and members thereof, from causing or initiating challenges or filing any affi-

davits of challenge which have as their purpose or effect discrimination based on race or color against voters, and
10 from further engaging in illegal acts and practices the same as or similar to those set forth in Paragraphs 9 through 15 of this Complaint;

(2) enjoining the Defendant Registrar from giving any legal effect whatsoever to the challenges referred to in Paragraph 9 hereof, or from giving any legal effect to any prior proceedings or orders based directly or indirectly upon such challenges.

(3) enjoining the Defendant Registrar, his successors, agents, and employees having actual notice of this order, from acting upon or giving effect to any challenges which might hereafter be made which have as their purpose or effect discrimination based on race or color against voters;

(4) enjoining the Defendant Registrar, his successors, agents, or employees having actual notice of this order, from requiring the voters whose names were illegally challenged and removed from the registration rolls of Washington Parish to register de novo or to take any further steps whatsoever as a condition precedent to their reinstatement forthwith as registered voters of said Parish.

(b) That this Court grant such additional relief as justice may require or as may be required in aid of the jurisdiction of this Court, including the issuance, upon proper application, of instructions where the Defendant Registrar has reasonable doubt as to his obligations and duties under this Court's order.

11 By direction of the Attorney General of the United States:

(S) Joseph M. F. Ryan, Jr.,
JOSEPH M. F. RYAN, Jr.,
Acting Assistant Attorney General.

(S) M. Hepburn Many,
M. HEPBURN MANY,
United States Attorney.

Appendix A to complaint

TITLE 18, SECTION 245, OF THE LOUISIANA REVISED STATUTES, 1950

§ 245. Illegal registration or loss of right to vote: notice to registrant; cancellation of name on failure to prove right.

Upon a written affidavit signed and sworn to in duplicate before and filed with the registrar or his deputy by any two bona fide registered voters of the parish, to the effect that after reasonable investigation and on information and belief certain persons are illegally registered, or have lost their right to vote in the precinct, ward, or parish in which they are registered by reason of removal or otherwise, the registrar shall immediately or, in any event, within forty-eight hours, notify the registrants by mailing to them postage prepaid, under P.O. Form 3547—Requested, at the addresses given in the registration records, the duplicate copy of affidavit, together with a printed citation requiring them to appear in person before the registrar or his deputy within ten days from the date of
12 the mailing of the duplicate affidavit and citation, which date shall be stated in the citation, and prove their right to remain on the registration rolls by written affidavit of three bona fide registered voters in the form as provided in R.S. 18:132. The registrar shall immediately make a similar publication, as provided for in R.S. 18:132, and if the challenged registrants fail, within the same delays provided in that Section, to prove their right to remain on the rolls, as in that Section provided, the registrar shall cancel their names from the registration records as provided by R.S. 18:135.

In United States District Court

Motion of Curtis M. Thomas to dismiss

Filed July 21, 1959

On Motion of Curtis M. Thomas, Registrar of Voters of Washington Parish, State of Louisiana, sought to be made defendant in the above entitled and numbered cause, through his undersigned counsel, and in no way acceeding to the jurisdiction of this Honorable Court, but on the contrary denying the same, moves as follows: to wit:

1

To dismiss the action herein because the complaint fails to state a claim against defendant registrar, Curtis M. Thomas, Registrar of Voters of Washington Parish, State of Louisiana, upon which relief can be granted.

2

To dismiss the action for the reason that Section
13 1917(c) of Title 42, United States Code is unconstitutional in that Congress has attempted to legislate *beyong* its jurisdiction; and that the same is not appropriate legislation within the meaning of Section 2 of the Fifteenth Amendment to the Constitution of the United States. To dismiss the action for the reason that the United States of America, through the Attorney General, has no right of action against the defendant herein.

(S) Jack P. F. Gremillion,
JACK P. F. GREMILLION,
Attorney General—State of La.
(S) M. E. Culligan,
M. E. CULLIGAN,
Assistant Attorney General.
(S) John E. Jackson,
JOHN E. JACKSON,
Assistant Attorney General.
(S) Weldon A. Cousins,
WELDON A. COUSINS,
Assistant Attorney General.
(S) William P. Schuler,
WILLIAM P. SCHULER,
Assistant Attorney General.
(S) Henry J. Roberts, Jr.,
HENRY J. ROBERTS, Jr.,
Assistant Attorney General.
(S) France W. Watts, Jr.,
FRANCE W. WATTS, Jr.,

Personal Attorney for the Defendant, Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana.

In United States District Court

Motion of defendants, McElveen, et al., to dismiss and plea to jurisdiction

Filed July 24, 1959

Defendants, Diaz D. McElveen, E. Ray McElveen,
14 Saxon Farmer, and Eugene Farmer move the Court to dismiss this action on the following grounds:

I

That the right of action asserted by plaintiff, United States of America, in this cause is allegedly based upon Part IV of the Civil Right Act of 1957 (P.L. 85–315, 71 Stat. 634; 42 U.S.C. 1971), which part of the Civil Right Statute is, and has been held to be unconstitutional, null and void. United States vs. Raines, et al., 172 Fed. Supplement 552 (U.S.D.C., M.D. Ga. April 16, 1959).

II

That, more especially, Part IV of the Civil Rights Act of 1957, above referred to, is unconstitutional for the following reasons:

(1) The act attempts to create a right of action to seek an injunction or other equitable remedy against private citizens for individual acts divorced completely from State action and hence is not appropriate legislation within the meaning of the 14th or 15th Amendment to the United States Constitution. That it is impossible to sever that portion of this part of the act which is constitutional from that part which is unconstitutional, hence the entire Part IV is unconstitutional.

(2) The act violates the 5th Amendment to the
15 Constitution of the United States in that it seeks to deprive defendants of their liberty and/or property without due process of law, and further violates this amendment to the Constitution by seeking to appropriate to the United States causes or rights of action belonging to third parties, all without just compensation.

(3) The act seeks to extend the judicial power of the United States Court to a type of case unknown in either law or equity, in violation of Section 2 of Article III of the Constitution of the United States.

III

That this Court has no jurisdiction over this controversy, since the act giving the jurisdiction is unconstitutional in the particulars above set forth.

Wherefore, movers pray that this Motion be sustained and that there be judgment herein dismissing this suit at plaintiffs cost;

Mover further pray for all orders necessary or proper in the premises and for general and equitable relief.

(S) Benjamin C. Toledano,
BENJAMIN C. TOLEDANO,
823 Lower Line Street, New Orleans 18, Louisiana,

(S) W. M. Shaw,
W. M. SHAW,
MEADORS, SHAW AND MEADORS,
P.O. Box 209, Homer, Louisiana,
Attorneys for Defendants.

16 In United States District Court

Amendment to Complaint

Filed Aug. 7, 1959

Pursuant to the provisions of Rule 15 of the Federal Rules of Civil Procedure, plaintiff, the United States of America, amends the complaint filed herein to change the designation of the defendant "White Citizens Council of Washington Parish, Louisiana," in the caption and body of said complaint to "Citizens' Council of Washington Parish."

(S) M. Hepburn Many,
M. HEPBURN MANY,
United States Attorney.

In United States District Court

Motion of the Citizens' Council of Washington Parish Louisiana, to Dismiss and Plea to Jurisdiction

Filed Aug. 19, 1959

Defendant the Citizens' Council of Washington Parish, Louisiana, moves the Court to dismiss this action on the following grounds:

I

That the right of action asserted by plaintiff, United States of America, in this cause is allegedly based upon Part IV of the Civil Rights Act of 1957 (P.L. 85-315, 71 Stat. 634; 42 U.S.C. 1971), which part of the Civil Rights Statute is, and has been held to be unconstitutional, null and void. United States vs. Raines, et al., 172 Fed. Sup. 552 (U.S.D.C., M.D. Ga. April 16, 1959).

II

That, more especially, Part IV of the Civil Rights
17 Act of 1957, above referred to, is unconstitutional for the following reasons:

(1) The act attempts to create a right of action to seek an injunction or other equitable remedy against private citizens for individual acts divorced completely from State action and, hence, is not appropriate legislation within the meaning of the 14th or 15th Amendment to the United States Constitution. That it is impossible to sever that portion of this part of the act which is constitutional from that part which is unconstitutional; hence; the entire Part IV is unconstitutional.

(2) The act violates the 5th Amendment to the Constitution of the United States in that it seeks to deprive defendant of its liberty and/or property without due process of law, and further violates this amendment to the Constitution by seeking to appropriate to the United States causes or rights of action belonging to third parties, all without just compensation.

(3) The acts seeks to extend the judicial power of the United States Court to a type of case unknown in either law or equity, in violation of Section 2 of Article III of the Constitution of the United States.

18 III

That this Court has no jurisdiction over this controversy, since the act giving the jurisdiction is unconstitutional in the particulars above set forth.

Wherefore, mover prays that this motion be sustained and that there be judgment herein dismissing this suit at plaintiff's cost.

Mover Further Prays for all orders necessary or proper in the premises and for general and equitable relief.

BENJAMIN C. TOLEDANO,
823 Lower Line Street,
New Orleans 18, Louisiana.

(S) W. M. Shaw,
W. M. SHAW,
MEADORS, SHAW AND MEADORS,
P.O. Box 209, Homer, Louisiana,
Attorneys for Defendant.

In United States District Court

Hearing on motion of defendants to dismiss argument and submission

August 19, 1959

Minute Entry, Wright, J.:

(Number and title omitted.)

This cause came on this day to be heard on motion of defendants to dismiss.

Present: M. Hepburn Many, U.S. Attorney; Francis W. Watts, Jr., Esq., Atty. for Curtis M. Thomas, Reg. of
19 Voters, Wash. Parish; Wm. M. Shaw, Esq., Atty. for Citizens Council of Wash., La.; Ben C. Toledano, Esq., Atty. for individual defendants.

Argument;

The matter was submitted when the Court took time to consider.

In United States District Court

Opinion of Court

Denying motions to dismiss—Oct. 17, 1959

W. Wilson White, Assistant Attorney General, United States of America; M. Hepburn Many, United States Attorney, Attorneys for Plaintiff; Jack P. F. Gremillion, Attorney General, State of Louisiana; M. E. Culligan, Assistant Attorney General; John E. Jackson, Special Counsel to the Attorney General; William P. Schuler, Special Assistant Attorney General;
20 Weldon A. Cousins, Special Assistant Attorney General; Henry J. Roberts, Jr., Special Assistant Attorney General; France W. Watts, Jr., Attorneys for Defendant Curtis M. Thomas, Registrar of Voters of Washington Parish; Ben C. Toledano, W. M. Shaw, Attorneys for Citizens' Council of Washington Parish and Individual Defendants.

WRIGHT: District Judge:

In the spring of 1959 the Citizens' Council, professing a purpose to purge the registration rolls of Washington Parish, Louisiana, of all persons illegally registered, succeeded in disenfranchising 85% of the Negro voters of the Parish and 0.07% of the white. The United States in this action charges that this profession of high purpose was a fraud designed to,

deny Negro citizens of a right to vote. Made defendants and charged with conspiring with the Citizens' Council are several members of the Council and the Registrar of Voters for Washington Parish.

The defendants have moved to dismiss, alleging the unconstitutionality of certain sections[1] of the Civil Rights
21 Act of 1957 under which the United States is proceeding. They admit that under the Fifteenth Amendment, Congress may authorize the United States to seek injunctive relief to protect citizens against state action denying their right to vote because of race. They contend, however, that Section 1971(c) is unconstitutional in that it may be interpreted as authorizing such action against private individuals as well as persons acting under color of law.

The complaint here specifically charges that the defendants, acting under color of state law, have deprived certain named citizens of their right to vote because of their race. The motion to dismiss, of course, admits the truth of these allegations. There is, therefore, no contention that legislation covering the facts of this case would be invalid. The position of defendants simply is that because Section 1971(c) may be more broadly interpreted, it is unconstitutional.[2]

---

[1] 42 U.S.C. § 1971 (a) and (c). These provisions read as follows:

"(a) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school, district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding."

"(c) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person."

[2] The defendant Registrar of Voters makes the additional contention that the function he performed in disenfranchising the voters was purely ministerial and was required by state statutes. The complaint, however, specifically charges that he knowingly participated in the discrimination. Moreover, the Registrar is an indispensable party to the granting of the relief. See Williams v. Fanning, 332 U.S. 490.

22 The defendants' contention is so obviously without merit that this Court would merely deny the motion to dismiss without more were it not for the fact that a district court has upheld a similar contention and declared Section 1917(c) unconstitutional.[3] In so doing, that Court ignored the most elementary principles of statutory construction, as repeatedly announced by the Supreme Court, and relied on an old case [4] interpreting a criminal statute.

It is true that the various civil rights acts have been the subject of much confused litigation. Out of this confusion, however, have emerged two propositions, both of which have now won general acceptance. The first of these is that the Congress may, without reference to the Fifteenth Amendment, pass any legislation reasonably designed to protect citizens in the exercise of any right guaranteed by the Constitution.[5] The right to participate in the election of federal officers is so guaranteed.[6] Article I, Section 4, of the Constitution specifically authorizes Congress to regulate the manner of holding elections for federal office. Article I, Section 8, Clause 18,
23 states that Congress is given authority "to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers." Under this authority, presumably Congress may also control the registration, but not the qualification [7] of voters in federal elections, since such authority would certainly be reasonably necessary to insure their proper conduct.

The second proposition relates to the power of Congress to control all elections for state or federal office. With reference to such elections, the Fifteenth Amendment imposes on Congress the duty to protect citizens from being denied their right to vote "by the United States or by any State on account of race, color, or previous condition of servitude." To be appropriate under the Fifteenth Amendment, legislation must be directed against persons acting under color, or previous condition of servitude. To be appropriate under the Fifteenth

[3] United States v. Raines, M.D., Ga., 172 F. Supp. 552.

[4] United States v. Reese, 92 U.S. 214.

[5] United States v. Williams, 341 U.S. 70, United States v. Classic, 313 U.S. 299; Logan v. United States, 144 U.S. 263; Ex Parte Yarbrough, 110 U.S. 651.

[6] See Note 5.

[7] The qualification of voters in federal elections is prescribed by Article I, Section 2 of the Constitution.

Amendment, legislation must be directed against persons acting under color of law, state or federal, and it must relate to the denial, by such persons, of citizens' right to vote because of race. Any congressional action which does not contain these two elements cannot be supported by the Fifteenth Amendment.[8]

It is admitted by the United States that the sections of the Act in suit, since they specifically apply to all elections, are predicated on the Fifteenth Amendment. The United States contends that these sections must be read together, and when so read, apply only to persons acting under color of law. The United States also maintains that, conceding these sections may be construed more broadly so as to cover hypothetical cases involving actions against private individuals, since the defendants in suit are within the legitimate reach of the legislation, the extended interpretation thereof with reference to persons not before the Court is unnecessary. Certainly, the Government contends, no court should reach out for these imaginary persons, and, in effect, bring them into this litigation in order to declare the Act unconstitutional.

It is true that Sections 1971 (a) and (c), in outlining their area of operation, do not use the talismanic phrase "Under color of law." By reading Sections 1971 (a), (b), and (c), however, the legislative purpose and intent become obvious. Section 1971(a) applies to all elections and to all persons acting under color of law. The last clause in the section makes this clear.[9] Section 1971(b) relates only to federal elections and is not limited to persons acting under state law. Section 1971(c) authorizes the United States to seek injunctive relief where there has been a violation of either (a) or (b). Even if one had difficulty literally reading into Section 1971(a) the limitation to persons acting under color of law, any doubt respecting the intent of Congress can be resolved by reference to the prior jurisprudence outlining the permissible reach of the Fifteenth Amendment and restricting it

[8] Terry v. Adams, 345 U.S. 461; Smith v. Allwright, 321 U.S. 649; James v. Bowman, 190 U.S. 127.

[9] The last clause reads:

"* * * any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding."

specifically to persons acting under color of law.[9] No court is authorized to assume that Congress, in enacting this legislation, was ignorant of the uniform jurisprudence of the Supreme Court on the subject.[11] In fact, it is a cardinal rule of statutory construction that such jurisprudence may serve as a guide to interpretation.[12]

There are other elementary rules of statutory construction which may be consulted if one were in doubt as to the meaning of the Act. The first of these is that the constitutionality of an act will not be determined unless it is absolutely necessary to the decision of the case.[13] From this primary
26 principle have evolved two rules of construction, both of which apply here: (1) the constitutionality of statutes will not be tested in the abstract without reference to the facts of the case at hand,[14] and (2) litigants may challenge

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[9] See Note 8.

[11] The legislative history of the Act shows that Congress was aware of this jurisprudence and sought to draft legislation to meet its constitutional requirements. See Notes 17, 18, 19 and 20.

[12] Shapiro v. United States, 335 U.S. 1, 16; Hecht v. Malley, 265 U.S. 144, 153. See also Missouri v. Ross, 299 U.S. 72, 75; Sessions v. Romadka, 145 U.S. 29, 42.

[13] See United States v. International Union United Automobile, Aircraft and Agricultural Implement Workers of America, 352 U.S. 567, at p. 590:

"The impressive lesson of history confirms the wisdom of the repeated enunciation, the variously expressed admonition, of selfimposed inhibition against passing on the validity of an Act of Congress 'unless absolutely necessary to a decision of the case.' Burton v. United States, 196 U.S. 283, 295." See also cases collected in Ashwander v. Tennessee Valley Authority, 297 U.S. 288, at p. 345.

[14] See also Yazoo and Mississippi Valley R. Co. v. Jackson Vinegar Co., 226 U.S. 217, at p. 219:

"* * * Of course, the argument to sustain the contention is that, if the statute embraces cases such as are supposed, it is void as to them, and, if so void, is void *in toto*. But this court must deal with the case in hand and not with imaginary ones. It suffices, therefore, to hold that, as applied to cases like the present, the statute is valid. * * *

See Liverpool, New York and Philadelphia Steamship Co. v. Commissioners of Emigration, 113 U.S. 33, at p. 39:

"* * * It (the Court) has no jurisdiction to pronounce any statute, either of a State or of the United States, void, because irreconcilable with the Constitution, except as it is called upon to adjudge the legal rights of litigants in actual controversies. * * *."

the constitutionality of a statute only in so far as it affects them.[15]

27 Here we have defendants, all admittedly acting under color of state law, charged with denying citizens their right to vote because of their race. Unquestionably, to the extent it affects them, the Act is appropriate under the Fifteenth Amendment. There can be no question but that they are covered by its terms. In fact, they admit it. Their point is that the legislation may be interpreted as covering others not before the Court, individuals not acting under color of law. This Court has no right to consider these imaginary persons in the hypothetical situations conjured up by the defendants in determining whether or not the Act may be constitutionally applied to the facts of this case and to the defendants before this Court. The duty of this Court is to strain, if necessary, to save the Act, not to destroy it.[16]

The legislative history of this legislation shows that Congress was aware of the widespread attempt to disenfranchise the Negro, overtly through statutory enactments, and covertly through discriminatory administration of voting laws. Congress was also aware that disenfranchisement can be accomplished only with the cooperation of persons acting under color

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[15] See Fleming v. Rhodes, 331 U.S. 100, at p. 104:

"• • • Litigants may challenge the constitutionality of a statute only in so far as it affects them. • • •"

See also United States v. Wurzbach, 280 U.S. 396, at p. 399:

"It is argued at some length that the statute, if extended beyond the political purposes under the control of Congress, is too vague to be valid. The objection to uncertainty concerning the persons embraced need not trouble us now. There is no doubt that the words include representatives, and if there is any difficulty, which we are far from intimating, it will be time enough to consider it when raised by someone whom it concerns. • • •"

See also Heald v. District of Columbia, 259 U.S. 114, at p. 123:

"• • • It has been repeatedly held that one who would strike down a state statute as violative of the Federal Constitution must show that he is within the class of persons with respect to whom the act is unconstitutional and that the alleged unconstitutional feature injures him. In no case has it been held that a different rule applies where the statute assailed is an act of Congress; nor has any good reason been suggested why it should be so held. • • •"

See also Rescue Army v. Municipal Court of Los Angeles, 331 U.S. 549; Virginian R. Co. v. System Federation No. 40, 300 U.S. 515; Jeffrey Manufacturing Co. v. Blagg, 235 U.S. 571.

[16] See Screws v. United States, 325 U.S. 91, at p. 100.

"• • • Only if no construction can save the Act from this claim of unconstitutionality are we willing to reach that result. • • •

of state law since registration rolls are in the custody
28 and under the control of state officers. Reference to the hearings,[17] the Committee reports[18] and the floor debate[19] on the legislation all demonstrate this awareness. This legislative history also shows beyond question that Congress was cognizant of its constitutional limitations and deliberately sought to enact legislation within those limits.[20] To say that Congress failed in this endeavor is to misread the language of the Act and to defile its great purpose.

In a democratic society there is no greater offense than illegally depriving a citizen of his right to vote. Such discrimination strikes at the very foundation of constitutional government. This offense is compounded when, as alleged here, it is committed under the guise of enforcing the law.

The United States has made the solemn charge that
29 these defendants have committed such an offense. Instead of challenging the constitutionality of the Civil Rights Act of 1957, these defendants should be searching their souls to see if this charge is well founded. This Court will make that determination after it hears all the evidence.

The motions to dismiss are denied.

(S) J. SKELLY WRIGHT,
United States District Judge.

NEW ORLEANS, Louisiana.
OCTOBER 7, 1959.

In United States District Court

Motion for Preliminary Injunction

Filed Oct. 12, 1959

Comes now the United States of America, plaintiff herein, and moves the Court for a preliminary injunction in the above entitled cause:

[17] Hearings before Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, 85th Cong., 1st Session; Hearings before Subcommittee No. 5 of the House Committee on the Judiciary, 85th Cong., 1st Session. Hearings before Committee on Rules, House of Representatives, 85th Cong., 1st Session, on H.R. 6127 at p. 44.

[18] House Report No. 291, 85th Cong., 1st Session; Report to Accompany S. 83, 85th Cong., 1st Session, Subcommittee Print.

[19] 103 Cong. Rec. 12150, 12565, 12829, 13138, 13876, 13324, 13333, 13319, 13322, 12149, 13120, 13126, 8498, 9396, 12898, 12900, 13006, 13732, 13320.

[20] In addition to Notes 17, 18 and 19, see 103 Cong. Rec. 13834, 13159.

(1) Enjoining the Individual Defendants individually and as members of the Defendant Citizens' Council, and enjoining the Defendant Citizens' Council and all officers and members thereof, from causing or initiating challenges or filing any affidavits of challenge which have as their purpose or effect discrimination based on race or color against voters, and from further engaging in illegal acts and practices the same as or similar to those set forth in paragraphs 9 through 15 of the complaint filed herein as amended;

(2) Enjoining the Defendant Registrar from giving any legal effect whatsoever to the challenges referred to in
30 paragraph 9 of the complaint filed herein as amended, or from giving any legal effect to any prior proceedings or orders based directly or indirectly on such challenges;

(3) Enjoining the Defendant Registrar, his successors, agents and employees, having actual notice of this order, from acting upon or giving effect to any challenges which might hereafter be made which have as their purpose or effect discrimination based on race or color against voters;

(4) Enjoining the Defendant Registrar, his successors, agents and employees, having actual notice of this order, from requiring the voters whose names were illegally challenged and removed from the registration rolls of Washington Parish to register de novo or to take any further steps whatsoever as a condition precedent to their reinstatement forthwith as registered voters of said parish;

(5) Further, that this Court grant such additional relief as justice may require or as may be required in aid of the jurisdiction of this Court, including the issuance, upon proper application, of instructions where the Defendant Registrar has reasonable doubt as to his obligations and duties under this Court's order.

Pursuant to Title 18, Section 299 A. of the Louisiana Revised Statutes of 1950, as amended in 1956, the Louisiana Democratic Gubernatorial Primary election will be held December 5, 1959. If the preliminary injunction prayed for by plaintiff be not granted, those voters against whom there
31 has or will have been discrimination based on race or color, all as set out with particularity in the complaint filed herein as amended, will suffer the irreparable injury, loss and damage of being deprived of their right to vote by the actions and threatened actions of the defendants; and the

United States of America, plaintiff herein, will suffer the irreparable injury, loss and damage of being frustrated in its essential governmental function of protecting the rights of its citizens under and in accordance with the Fifteenth Amendment to the Constitution and the Civil Rights Act of 1957. Plaintiff has no adequate remedy at law.

(S) Joseph M. F. Ryan, Jr.,
JOSEPH M. F. RYAN, JR.,
Acting Assistant Attorney General.
(S) M. Hepburn Many,
M. HEPBURN MANY,
United States Attorney.

In United States District Court

Order Setting Date for Hearing on Motion for Preliminary Injunction

Oct. 12, 1959

It is ordered that the motion for preliminary injunction be, and the same is hereby, set for hearing on Wednesday November 18, 1959, at 11:00 A.M.

It is further ordered that the hearing will be on a record made up of affidavits, depositions, or other written documents. No oral testimony will be taken in court.

32 It is further ordered that all parties file in the record of this case by Friday, November 13, 1959, the documents to be offered in evidence in support of their positions.

In United States District Court

Answer of defendants other than Thomas

Filed Oct. 17, 1959

Defendants Diaz D. McElveen, E. Ray McElveen, Saxon Farmer, and Eugene Farmer and the Citizens Council of Washington Parish, reserving all of their rights under the motions and exceptions heretofore filed herein, for answer to the complaint herein, aver:

(a) That this is an action brought under Part IV of the Civil Rights Act of 1957 which part is and has been declared

unconstitutional, null and void and that this entire proceedings is consequently without any legal force or effect.

(b) That, as is well known to complainant, the challenges referred to in Paragraph 9 have already been given full legal effect and the challenged parties removed from the rolls. That this proceedings is therefore inappropriate in seeking to enjoin defendant registrar from doing something which has already been done.

(c) That an injunction will not lie to enjoin a registrar from following the mandatory laws of this State which are perfectly constitutional on the theory that the registrar must
33 determine the motive of every party who files a challenge in accordance with such law.

(d) That this Court is without authority to grant an injunction requiring the registrar en bloc of the names of voters removed from the rolls for reasons fair on their face.

I

In answer to Paragraph I of the complaint, defendants deny the allegations therein contained.

II

The allegations of Paragraph 2 are denied.

III

The allegations of Paragraph 3 are admitted.

IV

The allegations of Paragraph 4 are denied for want of information.

V

The allegations of Paragraph 5 are denied.

VI

The allegations of Paragraph 6 are denied as written; it is admitted that the individual defendants with the exception of defendant registrar are members of defendant Citizens Council.

VII

The allegations of Paragraph 7 are merely conclusions of law which require no answer. The laws therein referred
34 to are the best evidence of their own contents.

VIII

The allegations of Paragraph 8 are merely conclusions of law which require no answer. The laws therein referred to are the best evidence of their own contents.

IX

The allegations of Paragraph 9 are denied as written. It is admitted that defendants filed affidavits, challenged numerous registrants on or about the times referred to, but they made no effort to keep a record of the same.

X

The allegations of Paragraph 10 are denied.

XI

The allegations of Paragraph 11 are denied.

XII

The allegations of Paragraph 12 are denied.

XIII

The allegations of Paragraph 13 are denied.

XIV

The allegations of Paragraph 14 are denied.

XV

The allegations of Paragraph 15 are denied.

XVI

The allegations of Paragraph 16 are denied for want of information.

XVII

The allegations of Paragraph 17 are denied.

35 XVIII

The allegations of Paragraph 18 are denied for want of information.

XIX

The allegations of Paragraph 19 are denied.

XX

The allegations of Paragraph 20 are admitted.

XXI

The allegations of Paragraph 21 are denied.

XXII

The allegations of Paragraph 22 are denied.

XXIII

The allegations of Paragraph 23 are denied.

Wherefore, defendants demand judgment dismissing the complaint herein filed, together with costs and disbursement of this action.

(S) Benjamin C. Toledano,
BENJAMIN C. TOLEDANO,
823 Lower Line Street,
New Orleans 18, Louisiana.

(S) W. M. Shaw,
W. M. SHAW,
MEADORS, SHAW AND MEADORS,
P.O. Box 209, Homer, Louisiana.
Attorneys for defendants.

In United States District Court

Motion To Produce and To Permit the Inspection, Copying and Photographing of Records Under Rule 34, Federal Rules of Civil Procedure

Filed Nov. 4, 1959

Comes now plaintiff, the United States of America,
36 appearing herein through M. Hepburn Many, and moves this Court for an order requiring defendant Curtis M. Thomas to produce and to permit the inspection, copying and photographing by plaintiff of the following records, documents and papers:

1. All Forms LR–1, Form of Application for Registration of persons currently registered and eligible to vote in the Parish of Washington, State of Louisiana.

2. All Forms LR–1, Form of Application for Registration, of persons who were registered and eligible to vote as of November 4, 1958, in the Parish of Washington, State of Louisiana, and who were stricken from the registration rolls of said parish during the period November 4, 1958 to June 16, 1959 by and as a result of challenges under Section 245, Title 18 Louisiana Revised Statutes of 1950.

3. All Forms LR–17, Affidavit in Case Registration of Voters is Challenged, filed with the said Curtis M. Thomas during the period November 4, 1958 to June 16, 1959, challenging the right of any persons to remain on the registration rolls.

4. All file copies of all Forms LR–14B, Printed Citation of Notice to Erase, mailed by the said Curtis M. Thomas upon and as a result of the filing of the Affidavits described in paragraph 3 above.

Defendant Curtis M. Thomas has the possession, custody, and control of each of the foregoing records, documents and papers. Each and all of them constitutes or contains evidence relevant and material to a matter involved in this action,
37 as is more fully shown in Exhibit "A", attached hereto and incorporated herein by reference.

Wherefore, the premises considered, it is respectfully moved that this Court:

(a) Set this motion down for an immediate hearing:

(b) Issue an appropriate order requiring defendant Curtis M. Thomas to produce and to permit inspection copying and photographing by plaintiff of the records, documents and papers described in paragraph 1 through 4 hereof; and

(c) Grant such further relief as the interest of justice may require.

(S) M. Hepburn Many,
M. HEPBURN MANY,
United States Attorney.

Exhibit A attached to foregoing motion

STATE OF LOUISIANA,
Parish of Orleans:

Before me, the undersigned authority, a Notary Public, duly commissioned in and for the Parish of Orleans, State of Louisiana, personally came and appeared M. Hepburn Many, who, being first duly sworn, did depose and say:

1. That he is attorney of record for plaintiff the United States of America in the instant case of United States v. McElveen, et al.; that he is familiar with the complaint and other pleadings filed in said cause and with the facts underlying said complaint and other pleadings.

38 2. That defendant Curtis M. Thomas at all material times herein was and is now the Registrar of Voters for the Parish of Washington, State of Louisiana, with his office in the courthouse building, Franklinton, Louisiana; that by virtue of this office he has in his position, custody and control, the records, documents and papers referred to in the motion to which this exhibit is attached.

3. That the registration records, documents and papers sought by plaintiff's motion and described herein constitute or contain evidence relating to matters which are relevant to the subject matter of the pending action, United States of America v. McElveen, et al, in that said action alleges certain racially discriminatory acts and practices of defendants with respect to registration for voting, and the records sought are needed by the plaintiff effectively to demonstrate this pattern of discrimination.

4. That there is now pending a motion for a preliminary injunction which is set down for hearing on November 18, 1959 and in connection therewith this Court has ordered that all

parties file in the record of this case by Friday, November 13, 1959 the documents to be offered in evidence in support of their positions; that accordingly it is necessary that this Court expedite a hearing on the instant motion to produce and permit inspection, and cause such hearing to be set down for argument immediately.

(S) M. Hepburn Many.

Sworn to and subscribed before me this 4th day of November 1959.

(S) Lloyd Cyril Melancon,
Notary Public.

39 In United States District Court

Request for admissions by plaintiff

Filed Nov. 6, 1959

To: Mr. Curtis M. Thomas,
Registrar of Voters,
Parish of Washington,
Franklinton, Louisiana.

Plaintiff the United States of America requests defendant Curtis M. Thomas, within ten days after service of this request to make the admissions for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at the trial, that each of the following statements is true:

1. That Defendant Curtis M. Thomas is, and at all times pertinent to this action has been the Registrar of Voters of Washington Parish, Louisiana.

2. That Washington Parish, Louisiana is, and has been at all times pertinent to this action, a permanent voter registration parish.

3. That as of October 6, 1956, approximately 1843 Negroes and approximately 15,529 white persons were registered voters of Washington Parish.

4. That as of November 4, 1958, approximately 1517 Negroes and approximately 11,444 white persons were registered voters of Washington Parish.

5. That as of June 16, 1959, approximately 236 Negroes and approximately 11,436 white persons were registered voters of Washington Parish.

6. That the decline in the number of registered Negro
40 voters in Washington Parish between the dates November 4, 1958, and June 16, 1959, resulted from the filing in the office of the registrar of affidavits of challenge by the individual defendants in this action, to wit, Diaz D. McElveen, E. Ray McElveen, Saxon Farmer, and Eugene Farmer.

7. That between November 4, 1958 and June 16, 1959, the individual defendants in this action, as named in Request Number 6 above, filed approximately 1377 affidavits challenging the registration status of Negro registrants and approximately 10 affidavits challenging the registration status of white registrants in Washington Parish.

8. That the affidavits referred to in Request Number 7 challenging the registration status of Negro registrants were almost without exception based upon minor deficiencies.

9. That deficiencies of the same general type as were used as the bases for challenging Negro registrants are and were at the time referred to in Request Number 6 present in the records of many white registrants who have not been challenged.

10. That as of June 16, 1959, approximately 1377 previously registered Negro voters had been and were struck from the registration rolls of Washington Parish, Louisiana, as a result of the challenges referred to above.

11. That there are nine wards in Washington Parish, Louisiana.

12. That in those wards where only white persons were registered, the individual defendants named in Request
41 Number 6 made no challenges.

13. That the individual defendants referred to in Request Number 6 made no inspection of the records pertaining to white registrants in those wards where no Negroes were registered.

14. That in those wards where Negroes and white persons were registered the affidavits of challenge made by the individual defendants referred to in Request Number 6 were, with very few exceptions, confined to Negro registrants.

(S) M. Hepburn Many,
M. HEPBURN MANY,
United States Attorney,
637 Federal Building, New Orleans 12, Louisiana.

In United States District Court

Request for admissions by plaintiff

Filed Nov. 6, 1959

To: Mr. WILLIAM M. SHAW,
MEADORS, SHAW & MEADORS,
Attorneys at Law,
Box 209, Homer, Louisiana.
Mr. BENJAMIN C. TOLEDANO,
Attorney at Law,
823 Lowerline Street, New Orleans, Louisiana.

Plaintiff, the United States of America, requests defendant, Citizens Council of Washington Parish, by an officer or agent thereof, within ten (10) days after service of this request to make the admission for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at the trial, that each of the following statements is true:

42 1. That the defendant Citizens Council of Washington Parish is and has been at all times pertinent to this action incorporated or otherwise organized under the laws of the State of Louisiana.

2. That the defendant Citizens Council is and has been at all times pertinent to this action affiliated with the Association of Citizens Councils of Louisiana.

3. That the defendant Citizens Council and the Association of Citizens Councils of Louisiana have as a mutual purpose the maintaining of segregation of white and Negro races in Washington Parish and in Louisiana, respectively.

4. That the defendant Citizens Council either endorsed, sponsored or otherwise participated in the filing of affidavits from February 1959 through June 1959, challenging the registered voter status of more than one thousand citizens of Washington Parish.

(S) M. Hepburn Many,
M. HEPBURN MANY,
United States Attorney,
687 Federal Building, New Orleans, Louisiana.

540111—60——3

In United States District Court

Request for admissions by plaintiff

Filed Nov. 6, 1959

To: Mr. WILLIAM M. SHAW,
MEADORS, SHAW & MEADORS,
Attorneys at Law,
Box 209, Homer, Louisiana.

Mr. BENJAMIN C. TOLEDANO,
Attorney at Law,
823 Lowerline Street, New Orleans, Louisiana.

43 Plaintiff, the United States of America, requests defendant E. Ray McElveen within ten (10) days after service of this request to make the admission for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at the trial, that each of the following statements is true:

1. That defendant E. Ray McElveen was, during the period from November 1, 1958 through July 1, 1959, a member of the Citizens Council of Washington Parish.

2. That prior to June 16, 1959, defendant E. Ray McElveen, acting pursuant to and under the authority of Title 18, Section 245 of the Louisiana Revised Statutes, participated in the filing of affidavits with the office of the Registrar of Voters of Washington Parish challenging the legality of the registration status of certain voters.

3. That defendant E. Ray McElveen based the affidavits of challenge referred to in Request Number 2, in so far as Negro registrants were concerned, on deficiencies in the registration records such as misspellings, failure to compute age with exact precision, and illegible handwriting.

(S) M. Hepburn Many,
M. HEPBURN MANY,
United States Attorney,
637 Federal Building, New Orleans, Louisiana.

In United States District Court

Request for Admissions by Plaintiff

Filed Nov. 6, 1959

To: Mr. WILLIAM M. SHAW,
MEADORS, SHAW & MEADORS,
Attorneys at Law, Box 209,
Homer, Louisiana.
44 Mr. BENJAMIN C. TOLEDANO,
Attorney at Law,
823 Lowerline Street, New Orleans, Louisiana.

Plaintiff, the United States of America, requests defendant Saxon Farmer within ten (10) days after service of this request to make the admission for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at the trial, that each of the following statements is true:

1. That defendant Saxon Farmer was, during the period from November 1, 1958 through July 1, 1959, a member of the Citizens Council of Washington Parish.

2. That prior to June 16, 1959, defendant Saxon Farmer, acting pursuant to and under the authority of Title 18, Section 245 of the Louisiana Revised Statutes, participated in the filing of affidavits with the office of the Registrar of Voters of Washington Parish challenging the legality of the registration status of certain voters.

3. That defendant Saxon Farmer based the affidavits of challenge referred to in Request Number 2, in so far as Negro registrants were concerned, on deficiencies in the registration records such as misspellings, failure to compute age with exact precision, and illegible handwriting.

(S) M. Hepburn Many,
M. HEPBURN MANY,
United States Attorney,
637 Federal Building, New Orleans, Louisiana.

45 In United States District Court

Request for admissions by plaintiff

(Filed Nov. 6, 1959)

To: Mr. WILLIAM M. SHAW,
MEADORS, SHAW & MEADORS,
Attorneys at Law,
Box 209, Homer, Louisiana.

Mr. BENJAMIN C. TOLEDANO,
Attorney at Law,
823 Lowerline Street, New Orleans, Louisiana.

Plaintiff, the United States of America, requests defendant Diaz D. McElveen within ten (10) days after service of this request to make the admission for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at the trial, that each of the following statements is true:

1. That defendant Diaz D. McElveen was, during the period from November 1, 1958 through July 1, 1959, a member of the Citizens Council of Washington Parish.

2. That prior to June 16, 1959, defendant Diaz D. McElveen, acting pursuant to and under the authority of Title 18, Section 245 of the Louisiana Revised Statutes, participated in the filing of affidavits with the office of the Registrar of Voters of Washington Parish challenging the legality of the registration status of certain voters.

3. That defendant Diaz D. McElveen based the affidavits of challenge referred to in Request Number 2, in so far as Negro registrants were concerned, on deficiencies in the registration records such as misspellings, failure to compute age with exact precision, and illegible handwriting.

46 (S) M. Hepburn Many,
M. HEPBURN MANY,
United States Attorney,
637 Federal Building, New Orleans, Louisiana.

In United States District Court

Request for admissions by plaintiff

Filed Nov. 6, 1959

To: Mr. WILLIAM M. SHAW,
MEADORS, SHAW & MEADORS,
Attorneys at Law,
Box 209, Homer, Louisiana.

Mr. BENJAMIN C. TOLEDANO,
Attorney at Law,
823 Lowerline Street, New Orleans, Louisiana.

Plaintiff, the United States of America, requests defendant Eugene Farmer within ten (10) days after service of this request to make the admission for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at the trial, that each of the following statements is true:

1. That defendant Eugene Farmer was, during the period from November 1, 1958 through July 1, 1959, a member of the Citizens Council of Washington Parish.

2. That prior to June 16, 1959, defendant Eugene Farmer, acting pursuant to and under the authority of Title 18, Section 245 of the Louisiana Revised Statutes, participated in the filing of affidavits with the office of the Registrar of Voters of Washington Parish challenging the legality of the registration status of certain voters.

3. That defendant Eugene Farmer based the affidavits of challenge referred to in Request Number 2, in so far as Negro registrants were concerned, on deficiencies in the registration records such as misspellings, failure to compute age with exact precision, and illegible handwriting.

(S) M. Hepburn Many,
M. HEPBURN MANY,
United States Attorney,
637 Federal Building, N.O., La.

47 In United States District Court

Defendant Thomas' opposition to order

Filed Nov. 6, 1959

Defendant, Curtis M. Thomas, through his undersigned counsel, herein appearing and reserving any and all rights and exceptions on motions previously filed, hereby opposes the order for hearing of a motion for order requiring the defendant, Curtis M. Thomas, to produce and permit inspection, copying etc. of certain records, which is set for hearing on 11/5/59 at 9:30 AM for the reason that the said order was signed by this court on "11/4/59" and was served on defendant, by United States Mail, through his counsel France W. Watts, Jr., at Franklinton, Louisiana; and that under Rule # 6(d), Rules of Civil Procedure, defendant herein is entitled to service of said motion, not later than five days before the time specified for hearing, and under Rule 6(e) is entitled to an additional three days when the service of said motion is made upon him by mail.

On further suggesting to the court that the Attorney General of the State of Louisiana, who is designated by law to be the legal advisor of the Registrars of Voters for this state, also did not receive sufficient notice as to the order herein, said notice having been mailed on November 5th, 1959 at 5:30 PM., and was received at his office on November 6th, 1959.

Wherefore, opposer, defendant Curtis M. Thomas, prays that the herein order requested by the United States of America be dismissed, as the order was not served on defendant or

48 his counsel timely.

(S) Jack P. F. Gremillion,
JACK P. F. GREMILLION,
Attorney General, State of Louisiana.
(S) Michael E. Culligan,
M. E. CULLIGAN,
Assistant Attorney General.
(S) Weldon Cousins,
WELDON COUNSINS,
Assistant Attorney General.
(S) Henry J. Roberts, Jr.,
HENRY J. ROBERTS, JR.,
Assistant Attorney General.

In United States District Court

Answer of defendant, Curtis M. Thomas

Filed Nov. 9, 1959

Defendant, Curtis M. Thomas, Registrar of Voters of Washington Parish, State of Louisiana, named herein and designated as Defendant Registrar, reserving all of his rights under any motions and exceptions heretofore filed herein, for answer to the *complain* filed against him avers:

(a) That this is an action brought under Part IV of the Civil Rights Act of 1957, which act is and has been declared unconstitutional, null and void and that this entire proceedings is consequently without any legal force or effect.

(b) That as well known to complainant, the challenges referred to in Paragraph 9, have already been given full legal effect and the challenged parties removed from the rolls. That this proceedings is therefore inappropriate in seeking to enjoin defendant registrar from doing something which has
49 already been done.

(c) That an injunction will not lie to enjoin a registrar from following the mandatory laws of this state which are perfectly constitutional on the theory that the registrar must determine the motive of every part who files a challenge in accordance with law.

(d) That this court is without authority to grant an injunction requiring the registrar en bloc of the names of voters removed from the rolls for reasons fair on their face.

1

In answer to paragraph 1 of the complaint, defendant denies the allegations therein contained.

2

The allegations of paragraph 2 are denied.

3

The allegations of paragraph 3 are admitted.

4

The allegations of paragraph 4 are denied for want of information.

5

The allegations of paragraph 5 are denied.

6

The allegations of paragraph 6 are denied for want of information.

7

The allegations of paragraph 7 are conclusions of law which require no answer. The law therein referred to is the best evidence of their own contents.

8

The allegations of paragraph 8 are denied for want of information.

9

The allegations of paragraph 9 are denied for want of information.

10

The allegations of paragraph 10 are denied.

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The allegations of paragraph 11 are denied for want of information.

12

The allegations of paragraph 12 are denied for want of information.

13

The allegations of paragraph 13 are denied for want of information.

14

The allegations of paragraph 14 are denied for want of information.

15

The allegations of paragraph 15 are denied.

16

The allegations of paragraph 16 are admitted.

17

The allegations of paragraph 17 are denied.

51 18

The allegations of paragraph 18 are admitted only insofar as to the allegations containing the statements that defendant registrar acted under the authority of Louisiana Revised Statute Title 18, Section 245; and specifically is denied the allegations that defendant registrar had knowledge of and acted *is* a discriminatory manner.

19

The allegations of paragraph 19 are denied.

20

The allegations of paragraph 20 are denied for want of information.

21

The allegations of paragraph 21 are denied for want of information.

22

The allegations of paragraph 22 are denied for want of information.

23

The allegations of paragraph 23 are denied.

Wherefore, defendant registrar demands judgment dis-

missing the complaint herein filed, together with costs and disbursement of this action.

(S) Jack P. F. Gremillion,
JACK P. F. GREMILLION,
Attorney General, State of Louisiana.
(S) M. E. Culligan,
M. E. CULLIGAN,
Assistant Attorney General.

52 (S) Weldon A. Cousins,
WELDON A. COUSINS,
Special Assistant-Attorney General.
(S) Henry J. Roberts, Jr.,
HENRY J. ROBERTS, Jr.,
Special Assistant Attorney General.
(S) France W. Watts, Jr.,
FRANCE W. WATTS, Jr.,
Franklinton, La.

In United States District Court

Hearing on motion of plaintiff for production of records, etc.; argument; and order granting same

Nov. 9, 1959

Minute entry: Wright, J.

This cause came on this day to be heard on motion of Plaintiff for production of records and inspection, copying and photographing of same.

Present: Mr. Hepburn Many, U.S. Attorney; Weldon A. Cousins, Esq., Henry J. Roberts, Jr., Esq., France W. Watts, Jr., Esq., Attorneys for Defendants.

Argument;

It is ordered by the Court that counsel for U.S. be and he is hereby allowed to take evidence as provided in his said motion; be allowed to take photographs of records in the Office of the Registrary of Voters so as to not disturb the order and conduct of said office. It is further ordered by the Court that counsel for U.S. make a duplicate copy for the Registrar of Voters and other parties concerned.

J.S.W.

53 In United States District Court

Opposition to motion for preliminary injunction by defendant, Curtis M. Thomas

Filed Nov. 13, 1959

Now into court comes the Attorney General of the State of Louisiana, herein representing the defendant Registrar of Voters of Washington Parish, State of Louisiana, Curtis M. Thomas, and without waiving any rights under any motions and exceptions previously filed herein avers:

(1) That an injunction will not lie against the Defendant Registrar in this type of action, as the acts of the Registrar have been completed and that an injunction is not a proper remedy in this action.

(2) That the names of the people who have been removed from the rolls cannot be replaced on the rolls at this time by virtue of Louisiana Revised Statute, Title 18, Section 170.

(3) That the complaint of the government admits on its face that there were in fact mistakes or errors in the registration application of the individuals listed in the herein suit, and therefore admits that these parties have made said mistakes, and also admits that under Louisiana law, this is sufficient grounds to challenge an individual, and that such challenge does not on its face or by its operation discriminate against any individual because of his race or color.

(4) That to allow an injunction to issue in this cause will allow all persons with errors to be re-registered, and a granting of an injunction would in effect indicate that any errors made by anyone would not disqualify them as voters, and
54 this would be in direct conflict with the Constitution of the State of Louisiana, and the laws of this State.

(5) That under Louisiana Revised Statute Annoted, Title 18, Section 245, the Mandatory duty of Defendant Registrar is to comply with State law and mere compliance is not an action which can be said to be discriminatory.

(6) That this court cannot enjoin the operation of a Statute which in effect will nullify a State law, unless the constitutionality of said statute is at issue, which is not at issue in this action.

(7) That the defendant registrar cannot be ordered by injunction or otherwise by this court as he is obeying district court judgment ordering him to perform certain duties as outlined in the Louisiana law, and among such duties is the obligation to accept challenges by registered voters.

Wherefore, the affidavits file and memorandum attached, Defendant Registrar, prays that the motion for preliminary injunction be denied and said request be dismissed, and for all costs in connection with these proceedings.

(S) Jack P. F. Gremillion,
JACK P. F. GREMILLION,
Attorney General.

(S) M. E. Culligan,
M. E. CULLIGAN,
Assistant Attorney General.

(S) Weldon A. Cousins,
WELDON A. COUSINS,
Assistant Attorney General.

(S) Henry J. Roberts, Jr.,
HENRY J. ROBERTS, Jr.,
Assistant Attorney General.

(S) France Watts, Jr.,
FRANCE WATTS, Jr.,
Personal Attorney for Def. Registrar.

55 Testimony of Curtis M. Thomas

(Number and Title Omitted.) (Filed: November 13, 1959)

Testimony of Curtis M. Thomas, taken by the Plaintiff, by agreement, pursuant to the provisions of the Federal Rules of Civil Procedure, at the offices of the United States Attorney, 637 Federal Office Building, New Orleans, Louisiana, beginning at 2:00 o'clock p.m., on Monday, November 9, 1959.

Before: Helen R. Dietrich, Notary Public in and for the Parish of Orleans, State of Louisiana.

Appearances

For the Plaintiff: M. Hepburn Many, Esq., United States Attorney, 637 Federal Office Building, New Orleans, Louisiana.

For all Defendants except Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana: Messrs. Meadors,

Shaw & Meadors, P.O. Box 209, Homer, Louisiana. By: W. M. Shaw, Esq.

For Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana: Weldon Cousins, Esq., and Henry J. Roberts, Esq., Special Assistant Attorneys General, State of Louisiana, 104 Supreme Court Building, New Orleans, Louisiana.

56 For Curtis M. Thomas, personally: France W. Watts, Jr., Esq., P.O. Box 248, Franklinton, Louisiana.

STIPULATION

It is stipulated and agreed by and between the parties that the testimony of the Defendant, Curtis M. Thomas, may be taken by the Plaintiff, for purposes of Discovery, pursuant to the provisions of the Federal Rules of Civil Procedure; that the testimony of the witness may be taken down in shorthand (Stenotype) by Helen R. Dietrich, and by her transcribed, the formalities of signing, sealing, certification and filing being waived, and all objections, save objections to the form of the questions, being reserved to the time of trial.

It is further stipulated that the testimony may be taken before the said Helen R. Dietrich in her capacity as Notary Public in and for the Parish of Orleans, State of Louisiana.

CURTIS M. THOMAS having been first duly sworn, was examined and testified as follows:

Cross-examination by Mr. MANY:

Q. Mr. Thomas, give us your full name for the sake of the record, please, sir.

57 A. Curtis M. Thomas, Registrar of Voters of Washington Parish.

Q. Where in Washington Parish do you live?

A. Franklinton, Louisiana.

Q. What is your home address there, sir?

A. It's Bogalusa.

Mr. WATTS. Off the record.

(Discussion off the record.)

A. It's Bogalusa, Louisiana. I live in Bogalusa, but I work in Franklinton, and Franklinton is the Parish seat.

Q. What is your home address in Bogalusa?

A. 723 Ontario, Bogalusa.

Q. What is your occupation?

A. Registrar of Voters of Washington Parish.

Q. How old a man are you, sir?

A. Thirty-six.

Q. How long have you been the Registrar of Voters of Washington Parish? How long have you held that office?

A. September 19, 1949.

Q. September, 1949?

A. Yes, sir.

Mr. COUSINS. Is that 1948 or 1949?

The WITNESS. It is 1949.

Q. At the time you took office as Registrar, what sort
58 or type of registration did Washington Parish have, that is, was it permanent or periodic registration?

A. Periodic registration.

Q. Is it the same now as it was then?

A. No, sir. We went under permanent registration May 31, 1958, under permanent.

Q. That was in May of last year?

A. Yes, sir.

Q. In connection with the change from periodic to permanent, was there a review of all the voters registered in the parish?

A. Sir, didn't have too many registered. Started the new registration in '56. The ones that registered between the time the permanent registration went in was drafted under, and we made a form for them to sign, and they signed it and sent it back, and that is what we use at the polls now to make up the book, the registration book.

Q. Now, if I may rephrase that so that I will be sure that I understand it——

A. Yes, sir.

Q. There was a regular periodic registration called for beginning 1956?

A. Yes, sir.

Q. How long would that have lasted if you hadn't changed to permanent registration?

A. It would have lasted to '60, through '60.

Q. Through '60?

59 A. Yes.

Q. And those that registered starting in 1956 were just, as you expressed it, "drafted in" when the parish became permanent registration?

A. Yes, sir.

Q. And that was in 1958?

A. Yes, sir.

Q. (Exhibiting document to witness and counsel) I have here a Form LR-1, entitled "Form of Application for Registration, Office of Registrar of Voters, Parish of Washington, State of Louisiana."

Mr. SHAW. They print these differently in each parish. There is the same subject matter on them, but the printing—that appears to be one for Washington Parish. That is why I was looking at it.

Mr. MANY. This, of course, is a blank form.

Q. This is such a form as your office uses?

A. Yes, sir.

Q. How long has your office used such forms?

A. Well, they was using that form when I went in there, sir. It's always been the custom.

Q. Is this form used with every registered voter?

A. Yes.

Mr. MANY. I ask that the court reporter identify this as "G-1". "Government-1", and append it to the deposition.

60

(Whereupon, the form referred to by counsel was duly marked for identification as "Exhibit G-1.")

Q. Now, Mr. Thomas, how is this card used?

A. Well, when the voter comes in, he is given this card and he fills it out,

Q. The voter himself fills it out?

A. Yes, sir.

Q. Do you have anything at all to do with the card?

A. Yes, sir. We check the card when he gets through. Then we give him a receipt.

Q. I note on the bottom, in the bottom right, they have, "Sworn to and subscribed before me * * *" and a place for——

A. Yes, sir, and I sign it.

Q. You sign it?

A. Yes, sir.

Q. Now how was this card used in your office?

A. Well, then, after it is completely filled out, we file that card, like in alphabet order, by wards and precincts. Everybody from Ward 1, Precinct 1's card is filed separate from any other ward or precinct, and they are filed all the way back. Each ward is separated.

Q. Each ward is separated?

A. And each precinct.

Q. And then within the ward each precinct is separated?

A. Yes, sir.

Q. Is there any separation of these cards on any other
61 basis than by ward and precinct?

A. No, sir.

Q. Now you have testified that permanent registration came in in 1958, and starting in 1956 and on up until then these cards were filled out for all the voters in your parish?

A. Yes.

Q. When permanent registration was made applicable in May of 1958, how did the number of voters then on the rolls compare with what they had been in 1956?

A. Well, we mailed them a form to——

Q. I am not sure I made myself clear to you. Was there the same, a larger, or a smaller number of voters on the registration rolls in 1958, May of 1958, as there had been, let's say, in the same month of May of 1956?

A. Yes, sir. I would say they were smaller.

Q. There was a smaller number of 1958?

A. Yes, sir, because the ones that didn't send in their forms was taken off the rolls.

Q. I see. The ones that hadn't sent in their forms were taken off?

A. Yes.

Q. So actually in '58 you had less than you had in '56?

A. That is right.

Q. Was there a substantial number less? Could you estimate it? What is the total number of registered voters as of '58? Can you answer that question?

A. Offhand I couldn't, sir.

62 Q. Is there any place where an official tabulation is kept?

A. Yes, sir, I think probably. We send in a monthly report to Baton Rouge, and we also have a monthly report, but we didn't send in the reports because we knew that we was going under permanent registration and there was a lot of people that did not register for the simple reason they was going to wait and register permanently and then they'd be through with it.

Q. I see. I see. In other words, there were a number to register after May of '58?

A. Yes, sir.

Q. Now in this permanent registration which you have, there are, of course, the laws that apply to it?

A. Yes.

Q. I assume that you as Registrar know the general effect of those laws. Does the Louisiana Registration Law for a permanent registration parish provide a means by which the voters themselves of a parish, of a particular parish, may challenge the right of other voters to remain on the registration rolls?

A. Yes, it is.

Q. Would you explain how that is done, sir?

Mr. SHAW. Let me say that I want to interpose an objection at this point because the law itself is the best evidence of its own content. I think you have already placed that in evi-
dence, have you not, in your pleadings? You did quote
63 the law on the subject, as I recall.

Mr. MANY. We did, sir, we specifically alluded to the law in the complaint filed in this action.

Mr. SHAW. And I object to letting the Registrar state what the law is. I think the law should speak for itself.

Mr. MANY. Mr. Shaw, perhaps when you follow the line of questioning—your objection, of course, is well taken as to what the law itself says, but what I am going to attempt to elicit is how, physically and specifically, in Washington Parish the law is put into effect, that is, what forms are used and so forth.

Mr. SHAW. In other words, you are asking him what he does?

Mr. MANY. Yes, sir. If you have any further objection——

Mr. SHAW. I want my objection noted, if there is an attempt to try to state what the law is.

Mr. MANY. If I ask for a legal interpretation on the part of the witness, Mr. Shaw; you are quite right, sir.

Q. It is your understanding, to get us back to the question, that the law does provide such a method?

A. Yes, sir.

64 Q. In Washington Parish, how would that purpose be effected, that is, how would people carry that into effect?

A. Well, any two qualified voters can come into the office and challenge anyone that they like, challenge anyone for misfilling their card out correctly or whether they have lived there the required length of time. Then the person that has been challenged——

Q. Wait. Let me interrupt you there just for a moment. The records, these cards, are available to the inspection of any registered voters?

A. To qualified registered voters of the parish.

Q. How would they challenge this?

A. They'd come in there and they'd go through the files, and whatever they challenged and signed an affidavit on them, they would state on the affidavit what was wrong with it.

Q. When you say "on the affidavit," is there a form of that, sir?

A. Yes, sir, there is.

Q. What is the number of that form? Do you recall?

A. I believe it is 17.

Q. (Exhibiting document to witness and to counsel.) I show you a form, LR–17.

A. That is it, sir.

Q. This is entitled, "Affidavit in Case Registration of Voter is Challenged." Now this one has been filled out. It may be subject to Mr. Shaw's objection here. Now without any discussion of the contents there, is that the type of form

65 that you use in Washington Parish?

A. Yes, sir.

Q. How large a staff do you have, sir?

A. Just myself and one deputy.

Q. And who is the deputy?

A. Frankie Thomas.

Q. Is she any relation to you?

A. No, sir. She was married formerly to a Knight, and he passed away, and now she is married to a Thomas.

Q. Would you recognize her signature?

A. Yes, I would.

Q. Could you say whether this is one of the challenges filed in your office?

A. Yes, sir.

Mr. SHAW. Now I object unless he can identify all of the contents of that as being one of the challenges filed in his office, as well as identifying the signature. Do you remember of your own knowledge or are you just saying that because he offered it to you, Mr. Thomas?

The WITNESS. This is a form that appears to be Mr. McElveen's signature and Mr. Farmer's and Mrs. Thomas's.

Q. You recognize the signatures—is that it?— but you don't know about the challenge itself?

A. Yes, sir. As far as the name, the person challenged, I don't know that.

66 Mr. SHAW. Then I object to that being introduced in evidence, for want of proper identification.

Mr. MANY. I ask that this be marked "G-2", and, of course, it will go in subject to Mr. Shaw's objection.

(Whereupon, the document referred to by counsel was duly marked for identification "Exhibit G-2.")

Q. Now we have gotten as far as the challenge. That is the Form LR-17 as filled out by two registered voters?

A. Yes, sir.

Q. Is that sworn to or subscribed in any way?

A. Yes, I think down at the bottom where we sign it there.

Q. Now after this challenge—I will call it a challenge—after this challenge has been filled out in the case of any particular voter, what then takes place? What do you do?

A. They have ten days to come in.

Q. Well, do you do anything on the basis of this?

A. I mail it.

Q. You mail the challenge itself, the affidavit?

A. With the copy of the one that I fill out here (indicating).

Q. Now you are pointing to Form LR-14B, "Printed Citation of Notice to Erase." Is this one such as is used?

Mr. MANY. It's the same individual (handing docu-

67 ment to Mr. Shaw.)

Mr. SHAW. I am sure it is.

Mr. MANY. Off the record.

(Discussion off the record.)

Q. I note that this also bears the signature of Frankie K. Thomas. Do you recognize that signature?

A. Yes, sir.

Q. And the person challenged is the same as in the Form LR-17, which has been introduced?

A. Yes, sir.

Mr. SHAW. I'd like to make my objection to this the same as I made to the other, and ask that it be noted.

Q. Subject to Mr. Shaw's objection, do you recognize this?

A. Yes, sir.

Q. For the moment setting aside that it is filled out, the form itself is one that is used in Washington Parish?

A. Yes, sir.

Q. Now going back to the contents of the form written in, as to that do you recognize the signature of Frankie K. Thomas?

A. Yes, sir.

Q. Now you say this, the Citation of Notice to Erase, is sent out together with the affidavit to the person challenged?

68 A. Yes.

Q. Is there any other document or form sent out at that same time?

A. No, sir.

Q. What then has the challenged voter to do?

A. He has ten days in which to come in with two qualified voters and sign an affidavit that his card is complete, or whatever is written on the affidavit as wrong, and then they sign, and I leave it on the rolls.

Mr. MANY. I ask at this time, subject to Mr. Shaw's objection, that this be introduced into evidence and marked "G-3" for "Government-3."

(Whereupon, the document referred to by counsel was duly marked for identification "Exhibit G-3.")

Q. Now has this method of challenging been used with any frequency at all since Washington Parish became a permanent registration parish?

A. Yes, sir, we have had quite a few challenges.

Q. Could you estimate the number of challenges since the permanent registration, May, 1958?

A. About 1,387, somewhere thereabouts.

Q. Of these generally have there been a few individuals to do most of this challenging?

A. A few individuals.

Q. Do you know those individuals?

A. Yes, I do.

69 Q. Who are they?

A. Mr. Diaz McElveen, Mr. Ray McElveen, Mr. Saxon Farmer, and Mr. Eugene Farmer.

Q. Those are the individuals named defendants in this matter now?

A. Yes, sir.

Q. What proportion of the total challenges did those four account for, in your opinion?

A. I'd say 98 percent, somewhere around there.

Q. Are you familiar with the general contents of these challenges?

A. Yes, sir.

Q. You have seen them yourself?

A. Yes, sir.

Q. What is the usual reason given in the affidavit, that is, this Form 17, on which the challenge of the registration is based?

A. Misspelling and correction of the age, figuring their age, and there was a few with illegible handwriting.

Q. The first two are the great number?

A. Yes, sir.

Q. Are there any having to do with the alleged moving of the voter out of the parish?

A. No, sir. You mean where he has lived in another parish the required length of time?

Q. Where he has moved out of Washington Parish.

A. No, sir.

70 Q. Have there been some challenges—let me rephrase this so that there will be no misunderstanding: were any of these challenges of people who had moved out of the parish?

A. No, not to my knowledge, no, sir.

Q. That is, of the group by McElveen and the others?

A. No, sir.

Q. How about the others? What was the basis on which those challenges were made?

A. Well, I have had a very few challenged lately for not living in the parish, hadn't lived in the parish the required length of time or they had moved from the parish and had been gone more than a year and they are supposed to vote in some other parish.

Q. Then you have had some challenges on that?

A. Yes.

Q. Of the challenges by the four you have named, the two McElveens and the two Farmers, you testify that none of those was on that basis of the voter having moved out of the parish?

A. All of theirs was on the grounds that they have misspelling on the cards, their age was wrong, or they had—in other words, their card was incomplete in some way or another.

Q. And it had either a defect or a deficiency?

A. Yes, sir.

Q. Now you are familiar with the great bulk of these cards? You use them every day?

A. Yes, sir.

71 Q. Approximately how many voters are now registered to vote?

A. I'd say approximately 15,000. We are not up to date on counting. We have been trying to get our count in, but we haven't yet completed it.

Q. You have just closed the rolls, haven't you, last week I believe it was?

A. Yes, sir, yes, sir.

Q. And there was quite a run at the last minute to qualify?

A. Yes, sir.

Q. Those have not been included as yet in your total?

A. They have not been included. They are included in. I'd say, the approximately 15,000. When we get through counting, I think we will have about 15,000 qualified voters in Washington Parish.

Q. Of the total cards of the presently current voters, that is, the voters eligible to vote now on December 5th in the primary at that time, how many or what proportion of those cards would you estimate could contain the same kind of defects or deficiencies as the cards challenged by the four named defendants?

Mr. SHAW. I am going to object to that unless you can first qualify him by showing that he has made a study of every individual card in there so that he would be in a position to know it for that purpose and can state it of his own
72 knowledge. That is calling for an opinion by a person who is not in a position to give it, in my opinion.

Mr. MANY. In response to that objection, I point out that Mr. Thomas has been asked whether he is generally familiar with the contents of these cards and deals with them in his everyday, day-by-day activities, and he has answered in the affirmative, and my position is that the question should be answered. Subject to Mr. Shaw's objection, I ask Mr. Thomas to answer the question. That, of course—let me explain here, Mr. Thomas—is a matter of legality. At the time of the introduction of this, there will be a ruling by the court on whether or not it is to be——

Mr. SHAW. In other words, my objection is for the court and you answer subject to my objection, you see.

Mr. WATTS. You go ahead and answer.

A. I'd say about half.

Q. That is about half of the total number presently registered?

A. Yes.

Q. And entitled to vote. Now of this number you said somewhere around—you named the figure 1,387 as being challenged—now what number of that, do you recall, were of white voters?

A. I believe it was ten of them, sir.

73 Q. And the others were what?

A. Colored.

Q. All Negroes?

A. Yes, sir.

Mr. MANY. That is all I have for now, sir. Off the record.

(Discussion off the record.)

By Mr. SHAW:

Q. Mr. Thomas, you were a plaintiff in a lawsuit, I believe, in connection with these challenging procedures by Mr. McElveen and the others, were you not?

A. Yes, sir.

Q. You went into the District Court and asked the Court to direct you what to do in connection with it?

A. Yes, sir.

Q. And the court did direct you, did it not?

A. Yes, sir.

Q. It ruled that the challenges were legal and that you were required to——

Mr. WATTS. I am going to object. The judgment of the court speaks for itself.

Mr. SHAW. Do we have a copy of the judgment in the record?

Mr. MANY. We do—not in the record.

74 Mr. SHAW. I have one here.

Mr. MANY. Would you want to file that at this time?

Mr. SHAW. I'd just as soon file it.

Q. (Exhibiting document to witness.) Will you take a look at that and see if that is a copy of the judgment that was obtained.

Mr. MANY. I might mention, Mr. Shaw, that I had intended to get one by now and file it. I have only this Thermofax copy. Off the record.

(Discussion off the record.)

Mr. WATTS. All parties concerned admit that this is a copy of the judgment issued by the District Court in and for Washington Parish on the 6th day of April 1959, Civil Docket No. 18,751, said suit having been brought by Curtis M. Thomas. Is that all right, Mr. Shaw?

Mr. SHAW. Let's identify it. Let it be offered in evidence as "Exhibit DE–1."

Mr. WATTS. Also as an exhibit for Mr. Curtis M. Thomas.

Mr. COUSINS. May I ask that the document which is to be marked "DE–1" be marked also "DR–2," as it has been

75 so marked previously for identification.

(Whereupon, the document referred to by counsel was duly marked for identification as "Exhibit DE–1 & DR–2.")

Q. Now pursuant to that judgment, what action did you take with regard to the cards that had been challenged?

A. I taken them all off the rolls after the court decision.

Q. You removed the cards only after you received that judgment. Is that right?

A. True.

Q. And struck the people who were registered from your voting rolls. Is that correct?

A. Yes.

Q. And the status of those individuals at this time is that they have been removed from the rolls. Is that right?

A. Yes, sir.

Q. Now how many of those people who were challenged appeared and attempted to reinstate themselves as voters on the registration rolls in accordance with the laws that you have previously quoted?

A. Mr. Shaw, I couldn't answer that, because I wouldn't know.

Q. You don't know——

A. —how many have been back in.

Q. Has any large percentage of them tried to do that?

A. No, sir.

Q. In the main, they did not attempt to file counter
76 affidavits. Is that correct, generally speaking?

A. There was a few that signed the affidavits; and I left them on. I believe there was one or two that did come in and sign the affidavit.

Q. The ones who filled out the counter-affidavits correctly you left on. Is that right?

A. Yes, sir.

Q. Now how many of those people who have been challenged have attempted to re-register anew?

A. Not too many of them, sir. I wouldn't be able to give you a number. I don't know how many.

Q. Have any of them?

A. I have had a few.

Q. Were they successful in re-registering?

A. Yes, sir, some was.

Q. Some were, you say?

A. I believe. I couldn't give you the number, maybe 18 or 20, I don't know.

Q. Was that all of those that tried to re-register or only a portion of them that tried to re-register that were successful in getting re-registered?

A. I don't know. I usually ask them if they had been challenged. If they had—well, I'd give them the card and he'd fill it out correctly and I'd put him on the rolls.

Q. What if they didn't fill out the card correctly? You'd leave them off?

A. I'd leave them off, yes, sir. I'd say I haven't had
77 over eight or ten in my office.

Q. So, in general, there's been no real attempt to use our laws for those people to get back on. Is that right?

A. No, sir.

Q. Now what is the status of this particular suit that you have filed now?

Mr. WATTS. Just a minute. You mean whether there has been an appeal or anything like that? We'll admit there has been no appeal on the suit.

Mr. SHAW. Let's admit something further.

Q. You agreed to abide by the judgment, did you not?

A. Yes, sir.

Mr. WATTS. Wait a minute now, Mr. Shaw. Let's get Mr. Thomas—you say he agreed to abide by the suit?

Mr. SHAW. Yes.

Mr. WATTS. Let's say he is abiding by it ever since the judgment has been rendered, he is abiding by it.

Q. Do you want to answer that to say, "I did abide by it," or "I am abiding by it and have abided by it ever since it has been rendered"?

A. Yes, sir.

78 Mr. WATTS. That is right. Please, sir, Mr. Shaw.

Q. Now to get back to the challenges, isn't it true the vast majority of them are based on failure to compute their age properly?

A. No, sir, I couldn't answer that, because I don't know if the vast majority was on that grounds or not.

Q. In other words, you made no attempt to find out what the grounds were other than just looking at them as you went through. Is that right?

A. We checked them to see if they was wrong before we sent the challenges out.

Q. You don't know what percentage were based upon, for instance, failure to compute their age correctly?

A. No, sir.

Q. As against illegible handwriting, for instance?

A. No, sir, I couldn't give you that.

Q. Or misspelling?

A. No, sir, I couldn't give you the number of them.

Q. Now you said the Form LR-1 was used for every voter, the form that he showed you. The printed form is not used for every voter, is it, the one he showed you?

A. Well, we have a form——

Q. For illiterates and for the physically handicapped that varies from that one, do you not?

A. Yes, sir. The wording is the same but the color is different.

Q. Well, there is also a difference in the statement
79 on the top of the card?

A. Yes, sir. It states the reason why.

Mr. MANY. Thank you, Mr. Shaw.

Q. Now you said that all you do in connection with the card is check the card for irregularities and then sign it?

A. Yes, sir.

Q. Is that correct?

A. Yes.

Q. Isn't it true you also give the card a designating number?

A. Not under permanent registration.

Q. You did on the previous cards before permanent registration?

A. Yes, sir.

Q. And on the back of the card you do frequently fill in changes of address and you also fill in changes of party and changes of ward and precinct number yourself when they move, do you not?

A. Yes, sir.

Q. What do you understand your duties to be in connection with registering a voter when he comes to apply for registration insofar as what tests you are to require of him?

A. We require him to fill that card out. He is required to live in the state for one year and in the parish for a year, and he must be 21 years of age, must be living in the precinct the required length of time.

80 Q. Well, when you say you require him to fill out that card, do you require him to fill it out completely?

A. Yes, sir.

Q. Correctly?

A. Yes, sir.

Q. If he fails to fill it out correctly, is it your understanding that you are supposed not to register him?

A. I understand that, Mr. Shaw, yes, sir.

Q. And, if he fails to fill it out correctly, is it your understanding that you are not supposed to register him?

A. Yes, sir.

Q. If he fails to compute his age correctly, do you understand that that is an error for which he is subject to being denied registration or removed, if he is registered?

A. Yes, sir.

Q. Now isn't it true that these laws have not been enforced, that those duties were traditionally not enforced before the last year or two?

A. Yes, sir. When I went in office—let's put it like this—it had been a custom when I went in office if there was minor mistakes, they'd been accepted in the past, and I did.

Q. And the Registrar frequently filled in the card for the people as a matter of fact, did he not?

A. Yes, sir.

Q. And there is a mandatory law at this time, as you know, to the contrary?

A. Yes, sir.

81 Q. And these errors that you spoke to Mr. Many about being in so many cards, is that a hang-over from that period back there when the laws were not enforced?

A. Yes, sir.

Q. Most of that?

A. Yes, sir.

Q. In recent months you have been enforcing the law is what I am saying, specifically in the category of——

A. Yes, sir.

Q. Have you in your administration of your office, either in registering or in handling of challenges, discriminated against Negroes or colored people?

A. No, sir, I have not.

Q. And have you discriminated in favor *or* white people?

A. No, sir, I haven't discriminated against anyone.

Q. You have tried to administer your office completely impartially?

A. Yes, sir.

Q. And fairly?

A. Yes, sir.

Q. How about your deputy, as far as your know?

A. As far as I know, she does, too.

Q. Now in your position, as I understand it, in your action when you removed these people from the rolls, you did it pursuant to a court order?

A. Yes, sir.

Q. A Louisiana Court order that directed you to do that?

82 A. Yes, sir.

Q. And you had a previous court order, I believe, against you, did you not?

A. Yes, sir.

Q. That court order was discussed, too, was it not, in this case that you——

A. Yes, sir.

Q. And do you recall whether or not the Judge ever discussed with you whether or not you were violating that court order in obeying his court order, the local judge?

Mr. MANY. Mr. Shaw, I do feel all of this goes to the judgment itself. It specifically provides——

Q. I believe the judgment provides that the Judge will discuss and take up with you, does it not, any problems you may have in the conduct of your office? That is in the judgment? That is what I am asking. Has he done so?

Mr. MANY. Just let me see, sir, if I understand that you have asked if he has actually discussed, subsequent to this judgment, discussed this with the Judge.

Mr. WATTS. Judge Barnett. Has he talked to you about it since he rendered this judgment

The WITNESS. Yes, sir, Judge Barnett told me to go with this decision here.

83 Q. And did he not tell you that there was no conflict between this and the previous injunction which was against you?

A. Yes, sir, he told me.

Q. And it is your understanding in acting under this you are not acting contrary to any other injunction or order that has been issued?

A. Yes, sir.

Q. When was the last of these challenges by Mr. McElveen and the other people whose names you mentioned as challenging on the face of the cards—when was the last of those issued, to your knowledge, to the best of your knowledge?

A. It's been several months ago.

Q. A good many months before the books closed?

A. Yes, sir.

Q. So that there was ample opportunity if anyone wanted to try to re-register?

A. They hadn't been in my office in several months.

Q. And there had been no attempt to challenge any people in several months?

A. No, sir.

Q. In your checking of these cards, of these challenges, were the cards challenged erroneous on their face? Did they have the errors that were complained of?

A. Yes, sir.

Q. They did contain those errors?

A. Yes, sir.

84 Q. And you were following out your duties in sending out these challenges?

A. Yes, sir.

Mr. SHAW. That is all.

Direct examination by Mr. COUSINS:

Q. Mr. Thomas, did you feel that you had any power of discretion as to whether or not you should send out a notice of challenge after the affidavits of challenge were made to you? Did you feel that you had any discretion or did you feel you must necessarily follow the State Law and the previous judgment and the injunction against you?

A. Yes, sir.

Q. So you didn't exercise any discretion arbitrarily or otherwise?

A. No, sir.

Q. You felt it mandatory upon you to send out those challenges?

A. Yes, sir.

Q. Again I will ask the question that was asked before: Have you in any way been arbitrary or intentionally discriminating against any registered voter; either new or challenged, because he might have been a member of the colored race or the Negro Race?

A. No, sir, I haven't.

Q. Now in the recent enforcement of the laws com-

85 pelling you to have the registrant himself fill out the card, have you or any member of your office been in-

tentionally or arbitrarily discriminatory against any member of the colored race?

A. No, sir.

Q. Since this suit has been filed, this present suit in which this deposition is being taken, have any of the challenged people who were stricken from the rolls attempted to re-register?

A. Not of my own personal knowledge. There may have been a few of them that were challenged that came back in and registered, but the ones that is on the suit, no, sir, they have not.

Q. You don't know whether since the time of filing of this suit—or not—you wouldn't be able to say definitely none of them have tried since the filing of this suit?

A. No, sir, I don't think so. They could have come in. I don't know. We have got a lot of people to come in, but whether or not they was the ones, I couldn't say without checking the records.

Q. And the signature on the bottom of the registration cards, the LR-1, are those actually signed by you in person or is there a stamp you used on some occasions?

A. Well, in some cases I have cut a stencil with my signature on it, and those cards were put in a vault and locked; and as the day went by, whatever I needed, I'd take 15 or 20 cards.

86 Mr. COUSINS. That is all.

Further cross-examination by Mr. MANY:

Q. In connection with a voter getting back on the rolls or rather answering the challenge, was there any form of affidavit prepared for you or suggested to you which that voter would have to sign to get back on the rolls after being challenged?

A. Yes, sir.

Q. (Exhibiting document to witness.) I show you a form which bears no number. It is called or entitled "Affidavit to be used in answer to challenges, State of Louisiana, Parish of Washington." Was that the form suggested to you to be used?

A. Yes, sir.

Q. That is the form?

A. Yes.

Q. Who was it that suggested that?

Mr. MANY. These are blanks, Mr. Shaw.

Mr. SHAW. I am familiar with it.

A. This form was—I forget what number it is—it's in the Revised Statutes and it has a number in there, but it had been changed for what reason they were challenging—we would put that in there. That is the form.

Q. What individual was it that suggested that this form be used, in other words, Mr. Thomas?

87 A. Mr. Gremillion, Jack Gremillion.

Q. Is that the Attorney General of the State of Louisiana?

A. Yes, sir.

Q. You have these on file in your office?

A. Yes, sir.

Q. And this is what would be used. Is that correct, sir?

A. Yes, sir. Mr. Gremillion sent me a copy of that. I called him and asked him.

Mr. MANY. I ask that this be marked "G–4," and made a part of this record.

(Whereupon, the document referred to by counsel was duly marked for identification "Exhibit G–4.")

Mr. SHAW. I would just like for you to state: Mr. Gremillion is Attorney General of the State of Louisiana and, as such, is your legal advisor as Registrar of Voters?

The WITNESS. Yes, sir.

Mr. SHAW. That is all.

Mr. MANY. No further questions.

(Thereupon, at 3:00 o'clock p.m., the taking of the witness's testimony was concluded.)

87–A

Date Registered
____ 195__

Form LR-1
FORM OF APPLICATION FOR REGISTRATION
OFFICE OF REGISTRAR OF VOTERS
Parish of Washington, State of Louisiana

Ward No. _____
Prct. No. _____
Cert. No. _____

RESIDENCE No. _____

I am a citizen of the United States and of the State of Louisiana.
My name is Mr.-Mrs.-Miss _____ I was born in
State (or country) of _____ Parish (or county) of _____
on the _____ day of _____ in the year _____. I am now _____ years,
months and _____ days of age. I have resided in the State since _____
in this Parish since _____ and in Precinct No. _____, in Ward No. _____
of this Parish continuously since _____. I am not disfranchised by any provisions of the Constitution
of this State. The name of the householder at my present address is _____
My occupation is _____ My color is _____ My sex is _____
I am not now registered as a voter in any other Ward or Precinct of this State, except _____
My last registration was in Ward _____ Precinct _____
I am now affiliated with the _____
Signature _____
Sworn to and subscribed before me, _____

Helen B. Dutrow
Helen Bourgeois, Official Registrar
DATE 11/4/57

_____ (Deputy) Registrar

87–B

CHANGE OF ADDRESS

Date _____ Residence _____ Ward No. _____ Prct. No. _____ Cert. No. _____
Date _____ Residence _____ Ward No. _____ Prct. No. _____ Cert. No. _____
Date _____ Residence _____ Ward No. _____ Prct. No. _____ Cert. No. _____
Date _____ Residence _____ Ward No. _____ Prct. No. _____ Cert. No. _____
Date _____ Residence _____ Ward No. _____ Prct. No. _____ Cert. No. _____
Date _____ Residence _____ Ward No. _____ Prct. No. _____ Cert. No. _____
Name of Employer _____
Property owner _____ Tenant _____ Boarder _____

CHANGE OF NAME

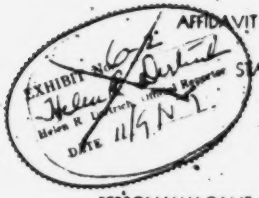
I am now Mr.-Mrs.-Miss _____ Date of Change _____
Nature of change _____

REMARKS

Color of Eyes _____
Mother's First and Maiden Name _____

540111—60—5

87-C GOVERNMENT EXHIBIT NO. 2



AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

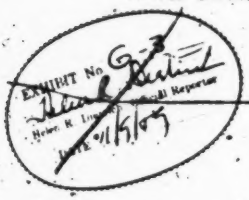
STATE OF LOUISIANA—PARISH OF [illegible]

PERSONALLY CAME AND APPEARED BEFORE ME [illegible]
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF [illegible]
STATE OF LOUISIANA.
[illegible] AND [illegible]
WHO BEING DULY SWORN, DO DEPOSE AND SAY:
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT [illegible]
REGISTERED FROM [illegible] North Rosenwald
(Municipal number and street, if any)
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO. [illegible] WARD 4
PRECINCT 2, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:
Misrepresentation of application
AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4 PRECINCT, 2 THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.
SWORN TO AND SUBSCRIBED Eugene Farmer
BEFORE ME, ON THIS 2
DAY OF April 1967 E. A. McElveen
Franklin K. Thomas
(Deputy) Registrar of Voters

87-D

GOVERNMENT EXHIBIT NO. 3

PRINTED CITATION OF NOTICE TO ERASE



STATE OF LOUISIANA, PARISH OF Ward

REGISTRATION OFFICE

CITATION TO APPEAR

FROM: Frankie K Thomas Registrar of Voters

TO Carne K Morgan 1636 Ave E Ry Jr

PARISH OF Ward

STATE OF LOUISIANA

BRING THIS NOTICE WITH YOU

YOU ARE HEREBY NOTIFIED, THAT ON OR BEFORE THE 2nd DAY OF May 19 57 A PERIOD OF TEN DAYS FROM THE MAILING DATE OF THIS CITATION, DURING OFFICE HOURS, YOU ARE TO SHOW CAUSE IN PERSON IF ANY YOU HAVE, BEFORE THE UNDERSIGNED REGISTRAR OF VOTERS FOR THE PARISH OF Ward STATE OF LOUISIANA, WHY YOUR NAME SHOULD NOT BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD NO. 4 PRECINCT NO. 2 CERTIFICATE NO. IN ORDER TO RETAIN YOUR REGISTRATION YOU ARE REQUIRED TO PRODUCE THREE DULY REGISTERED VOTERS OF THIS PARISH TO MAKE OATH BEFORE THE UNDERSIGNED THAT YOU ARE LEGALLY REGISTERED.

By Frankie K Thomas Registrar of Voters

LOUISIANA

22 DAY OF April 19 57

87-E GOVERNMENT'S EXHIBIT NO. 4

I.R.....

Affidavit To Be Used in Answer to Challenges, State of Louisiana—Parish of Washington

Personally came and appeared on this the .... day of ..... 19.... before me, ... (Dep.) Registrar of Voters in and for the Parish of Washington, State of Louisiana, ...
and ..... who being first duly sworn by me, do depose and say:

That they are each personally acquainted with ....., registrant; that they have investigated the facts of the case, and of their own personal knowledge know that ..... now resides at ..... St., Prct. No. ....., Ward No. ..... of this Parish, and has continuously resided in that precinct and ward for the past .... months, and during that time has resided at the address aforesaid, and has resided in the Parish of Washington for a period of .....;

That the Registrant was challenged on the following grounds, to-wit;

.....
.....

That each affiant further attests that to his personal knowledge, ... is legally registered and that none of the above listed grounds of challenge are true and correct. That this affidavit is made for the purpose of causing said registrant to be retained on the registration rolls.

.....
.....

Sworn to and subscribed before me, this .... day of ..... 19.....

_____

(Deputy) Registrar of Voters.

87-F *Defendants' Exhibit Nos. 1 and 2*

Twenty-second Judicial District Court of
Louisiana, Parish of Washington

Civil Docket No. 18,751

CURTIS M. THOMAS

versus

RAY MCELVEEN ET AL.

REASONS FOR JUDGMENT

This is a suit instituted by Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana, seeking a declaratory judgment with regard to the legality of the registration of some one hundred fifty-six challenged voters and a temporary and permanent injunction against defendants, Ray McElveen and Saxon Farmer, enjoining and restraining them from continuing their examination of the voter rolls of Washington Parish. Plaintiff alleges that defendants challenged the contested registrations on the basis of "minor" irregularities contained in the application form of each. As examples of these "minor" errors, plaintiff cites incorrect computation of age and other similar mistakes, which he alleges to be minor.

Pursuant to plaintiff's application, a rule nisi issued ordering defendants to show cause why a temporary injunction should not be granted enjoining and restraining them from continuing their examination of the voter rolls in this parish. A hearing on this rule was set for Friday, March 20, 1959. On the return date defendants filed answer to the rule and an exception of no cause or right of action. The rule was taken up, tried and submitted. Judgment was duly rendered, dismissing the application for a temporary injunction without assessing costs.

Subsequent to the rendition of judgment on the rule, plaintiff and defendants, through their respective counsel, entered a stipulation reoffering the evidence adduced on the trial of the rule and submitting the case on its merits, with the understanding that defendants were to file answer forthwith.

87-G Defendants filed an exception of no cause or right of action, and thereafter they filed their answer, putting the case at issue on the merits.

During the trial of the rule, a chance remark by one of the participants caused the Court to point out the gravity of the issues involved and the importance of any trial which adjudicates the privilege of even one citizen to participate in the processes of his government by means of the elective franchise. It may not be amiss to reiterate those sentiments at this point.

We are blessed to live in a land whose government derives its just authority from the consent of the governed. Millions of brave men and women, throughout history, have sacrificed their lives, their property and their families so that posterity might enjoy the benign and beneficent influences of a government of the people. The representative democracy under which we live is the end result of untold suffering, sacrifice and perseverance. It should never be regarded lightly. It must ever be guarded most carefully. Eternal vigilance is, indeed, the price of liberty!

The tragic history of those great and ancient democracies—Greece and Rome—bears silent witness that such governments carry within themselves the seeds of their own destruction. The greatest danger to any democracy is internal—not external. That danger, resulting in moral internal decay, is the habitual and prolonged abuse of the elective franchise.

It is elemental that in all of the governments of the world there is no such thing as a "pure" democracy. Every civilized country limits its electorate to those citizens deemed sufficiently wise and responsible enough to discharge this solemn function. We are all familiar with such qualifications as those of age, residence and citizenship. Most of us know, also, that the franchise is denied to felons, insane persons and those dishonorably discharged from the military. Our high school civics texts usually point out that many states, also, require some form of intelligence test of a prospective voter. Cheating on any of these qualifications is not an inconsequential matter. When such cheating becomes extensive and
87-H prolonged, it cheapens the value of the vote of every qualified elector and quickly undermines public morale. It is "the customary weapon by which free governments are destroyed."

It is, therefore, the duty of every good citizen, be he an elected official or not, to see that our registration rolls are kept in good order and free from those who would abuse their qualifications. A fortiorari, the Registrar of Voters is duty bound to execute each and every law dealing with the qualification of voters in its full spirit and meaning. The Registrar of Voters is the official custodian of one of our most sacred rights—the right to vote. Therefore, his office is a most important office, affecting the welfare and well-being of every citizen in this State.

Shortly after the first of the year, the Legislature, the Chief Executive and the Attorney General of Louisiana embarked upon an educational program designed to bring about uniform enforcement of voter qualification laws in this State. This would insure, for example, that the ballot of Sam Smith in Caddo Parish would not be nullified by an illegal ballot cast by John Doe, say, in Orleans Parish. This program was extensively reported by the press, and knowledge thereof is so common that this Court may well take judicial notice of it. That such a program was necessary became readily apparent immediately after its commencement. It aroused a great deal of interest among public officials and even ordinary citizens. It is, no doubt, the causa causans of defendants' search for illegal registrations in Washington Parish.

From the evidence it appears that sometime during the month of February, 1959, defendants, and possibly others, undertook a canvass of the registration rolls of Washington Parish and especially the registrations in Ward 4, Precinct 1. They had a legal right to do this. As a result of this canvass, defendants issued, or caused to be issued, one hundred fifty-six challenges to persons who had made various alleged errors on their registration cards (Form LR–1), a test provided for by Art. VIII, Sec. 1, of the Constitution of Louisiana.

87–I Plaintiff, in his official capacity, mailed these challenges, as required by law (LRS. 18; 245). Subsequently, a large number of those challenged returned with three registered voters who made affidavits that the challenged voters were residents of the parish and state. Plaintiff accepted these affidavits as proof of the challenged voters' right to remain registered, even though the challenges were based on irregularities on the face of the registrants' cards, other than

non-residence. Defendants objected to this on the ground that the counter-affidavits did not traverse the challenge and, hence, did not establish the registrant's right to remain on the rolls. In the course of this dispute, plaintiff ordered defendants out of his office and advised them that they would no longer have access to the records. He based this action upon the necessity of preparing for an approaching bond election in Washington Parish. Shortly thereafter, plaintiff instituted this suit, seeking to enjoin defendants from continuing their examination of the rolls and asking for a declaratory judgment.

With regard to the application for a permanent injunction, this Court feels that the exception of no cause or right of action is meritorious, and the application must be dismissed. The law on this point is clear and unambiguous. It is set forth in L.R.S. 18: 92, as follows:

"All of the above records are public records and shall at all times during office hours be open to inspection by any qualified registered voter * * * If the registrar claims that such will seriously interfere (with the registration of voters), he shall arrange to permit such inspection *after office hours*, under the supervision of himself or of any deputy he designates and he shall afford opportunity and facilities for that purpose, *if so requested*, for at least *four hours* in any calendar day, Sundays and holidays excepted." (Italics ours.)

This statute specifically covers the situation com-
87–J plained of. If plaintiff cannot accommodate defendants during office hours, he must arrange "to permit such inspection after office hours." *There are no exceptions or limitations.* Hence, this Court could not issue the requested injunction even if it were of a mind to—which it is not.

In this action plaintiff also sought a declaratory judgment on the following questions:

(1) Does the Registrar have any discretion with regard to accepting or rejecting affidavits which challenge a registration under L.R.S. 18:133 or L.R.S. 18:245, or is he required to take the prescribed action so long as the challenging affidavits are in proper form?

(2) Are the counter-affidavits submitted by the challenged registrants (P–5 through P–142) sufficient to answer the challenge in each case?

(3) If not, what action should the Registrar take with respect to the registration cards of those challenged who sub-

mitted insufficient proof of legal registration but did furnish affidavits stating that they were residents of Washington Parish?

(4) Do the actions required of the Registrar by L.R.S. 18:133 or L.R.S. 18:245 conflict with the injunction of the United States District Court for the Eastern District of Louisiana (Exhibit P-159)?

(5) From what appears in this record, has the Registrar been guilty of nonfeasance, malfeasance, misfeasance, or any other punishable action, as indicated by defendants' counsel?

In response to plaintiff's request for a declaratory judgment, this Court finds that the pleadings and evidence do disclose an actual, bona fide dispute between plaintiff and defendants, with respect to some of the questions set forth and that justiciable issues are presented. Hence, the plaintiff is entitled to a declaratory judgment under the provisions of L.R.S. 13:4231 et sequentes.

The pleadings and testimony of the plaintiff clearly show that he is laboring under the mistaken impression that the registration blank provided by the Constitution (Art. VIII, Sec. 1) was intended only to supply certain information to the registrar of voters. He, apparently, is unaware of the fact that this blank was devised as a test of the applicant's intelligence and literacy. That is why the Constitution specifically provides that it must be "entirely written, dated, and
87-K signed * * * in the presence of the registration officer or his deputy, without assistance or suggestion from any person or any memorandum whatever, other than the form of application hereinafter set forth * * *"

The Supreme Court has many times ruled on this particular point. In the case of Bishop v. Sherburne, 122 La. 429; 47 So. 759 (1902), the Court held:

"The constitutional test was not intended as an idle form, but was the result of the most serious and protracted deliberations in the convention by which the Constitution was framed, and was intended by that body to be literally complied with, as is evident from the language and particular requirements of the article in which it is incorporated. The applicant 'shall demonstrate' his ability to read and write, not by reading or writing anything that he may choose, but by reading and filling the blanks in, a form prescribed, ipsissimus verbis, by the Constitution itself, the doing of which requires, not only the

ability to read and write, but likewise intelligence sufficient to enable the applicant to compute, at least, the number of years, months, and days of his life." (122 La. 431)

This decision has been repeatedly upheld. Lorio v. Sherburne, 122 La. 434, 47 So. 760 (1908), State ex rel Smith v. Dardenne, Reg., 129 La. 835, 56 So. 905 (1911). It is the law today and shall remain so until and if the Constitution is amended.

Once the fundamental significance of this Constitutional test is understood, much of the confusion in plaintiff's mind should be dispelled.

This brings us down to a consideration of the specific questions propounded by plaintiff. Our answer to Question No. 1 is that a careful reading of L.R.S. 18:133 and 12:245 will show that the method of removal of illegally registered voters set up in each of these two sections is unique in that it all but eliminates discretionary action on the part of the Registrar and reduces most of his duties to those ministerial in character. If the challenging affidavit is in proper form and states a ground sufficient in law to justify removal, the registrar must proceed to mail out the citation and duplicate copy of the affidavit. He cannot question the truth or falsity of the affidavit itself. Likewise, if a counter affidavit is presented by three registered voters which "proves" the registrant's right to remain on the registration rolls, the registrar cannot question the truth of the statements contained therein. However, it is quite clear that the counter affidavit, in order to "prove" the registrant's right to remain on the registration rolls, must traverse and specifically deny the accusations and charges in the challenging affidavit. In this respect, the Registrar does have discretionary powers in that he is the sole judge when the counter affidavit by three legally registered voters legally answers the challenge and actually proves the right of the challenged voter to remain on the registration rolls. This is indeed a heavy responsibility on the Registrar and necessitate him to become thoroughly familiar with the law and the jurisprduence on this phase of our registration laws. When such has been done, a prima facie case of perjury on the part of either the challenger or the counter affiants may have been made out, and if apparent perjury is disclosed, the entire matter should be referred to the District Attorney and or the Grand Jury. (Reports and Opinions of the Attorney General,

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1956–1958, p. 183). This question is too vital to the welfare of our State for the Court to "pull punches", regardless of whose toes are stepped on. The Attorney General's Opinions, 1956–1958, pages 182–3–4–5–6, do not clarify the matter very much. What we are badly in need of is new legislation, defining and clarifying the duty of the Registrar in these eventualities. The law is too indefinite and places too great a responsibility on the part of the Registrar to determine when and how the challenged registrant has proved his right to remain on the registration rolls. This Court can easily understand and appreciate the resultant confusion in the mind of the Registrar. The form prescribed by the Legislature—R.S. 18:132 and 133—for three voters to sign proving the right of the challenged registrant to remain on the rolls, appears from its wording to deal with the question of residence alone. Under the form of this affidavit, if the challenged registrant proves his residence by his personal appearance before the Registrar and by the affidavit of three legal voters, he has proved his right to remain on the rolls regardless of his disqualifications 87-M on other grounds than residence. Certainly this could not have been the intent of the Legislature. This question needs clarifying badly. The duties and discretion of the Registrar should be made more certain and definite and better forms provided for the Registrar's use.

The testimony and evidence presented show that each of the challenges included in Exhibits P–5 through P–142 were based on grounds other than non-residence of the challenged voter. On the other hand, the counter affidavits presented to each of these challenges simply state that the challenged voter had resided in Washington Parish, Ward 4, Precinct 1, for the length of time required by law. Hence, these counter affidavits are irrelevant to the challenges. They do not "prove their right to remain on the registration rolls by written affidavit." (L.R.S. 18:245). Under these circumstances, the counter affidavits cannot be considered to be in proper form nor the challenges disproved, and the 10-day period having elapsed, the challenged registrants must be forthwith removed from the registration rolls. Their recourse is provided by L.R.S. 18:135. The challenged parties must re-register completely and properly if they wish to vote in the future. Hence, Question 2 must be answered in the negative, and Question 3 has already been answered. The Registrar must cancel the registration of those

who were challenged on other grounds than residence and who furnished only counter affidavits as to residence.

A certified copy of a judgment in the United States District Court, Eastern District of Louisiana, enjoining plaintiff from discriminating, in the administration of his office, against anyone because of race, color or previous condition of servitude was introduced in evidence as P–159. This injunction was issued by the United States District Court for the Eastern District of Louisiana. A perusal thereof shows that the injunction is extremely general in form. In fact, it is so general as to raise a question of its validity under Rule 65(d) of the Federal Rules of Civil Procedure. Also, the judgment erroneously refers to the Fourteenth Amendment as a basis for its issuance instead of the Fifteenth Amendment, which is the 87–N amendment specifically applicable to such cases. However, regardless of its apparent invalidity, we shall, for the purpose of answering Question No. 4, assume that the injunction is valid and subsisting. Nothing presented on the trial of this case or shown by any of the exhibits filed herein indicates that these challenges are based solely on the race, color or previous condition of servitude of the challenged registrants. Contrariwise, in each case the challenge specifically sets forth the grounds upon which the challenge is based. In each case the challenge was based on an insufficiency in the registrant's application blank. Their color had nothing to do with the challenges; it would apply just the same, whether they were black or white or pink or green. The whole question is whether or not they are properly and legally registered. It is hornbook law that the State has complete jurisdiction over granting or withholding of the elective franchise, subject only to federal constitutional restraints prohibiting discrimination on account of race, color, previous condition of servitude or sex. In the leading case of Pope v. Williams, 193 U.S. 621, 24 S. Ct. 573 (1904), the United States Supreme Court phrased it thusly:

"The privilege to vote in any State is not given by the Federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States * * * It may not be refused on account of race, color, or previous condition of servitude, but it does not follow from mere citizenship of the United States. In other words, the privilege to vote in a State is within the jurisdiction of the State itself, to

be exercised as the State may direct, and upon such terms as it may seem proper, provided, of course, no discrimination is made between individuals, in violation of the Federal Constitution."

Therefore, Question No. 4 must be answered by pointing out that the actions required by the Registrar under L.R.S. 18:133 or L.R.S. 18:245 do not conflict with the injunction of the United States District Court. As we have previously stated, the actions of the Registrar under these sections are primarily ministerial in nature. If any discrimination is practiced in connection with this section, it would necessarily have to be by the parties challenged or the parties who do the challenging. In any event, the Registrar could not be held culpable so long as he merely carried out his ministerial functions.

87-O The last question asked deals with the registrar's criminal responsibility under the provisions of Title 18 of the Revised Statutes and or under the provisions of L.R.S. 14:134. It is elementary law that our Declaratory Judgment Act (L.R.S. 13:4231, et seq.) does not extend to matters of a criminal nature. Additionally, since every crime is an offense against the State and not an individual, the State would have to be represented in any proceedings wherein a court attempted to rule upon whether or not a person were guilty of a particular crime. The State is not a party to these proceedings. Hence, this Court must refuse plaintiff's request for an answer to Question No. 5. As thus qualified, the answer to this question is "No".

The right of the franchise, or the right to vote, is a cherished and precious privilege, dreamed of and hoped for by countless millions but obtained by comparatively few of the peoples of the earth. This being true, that is, that the right to vote is a priceless privilege, then it is equally true that it is also a priceless privilege as well as a duty and responsibility to prevent the unworthy and unqualified from voting. If the unworthy and unqualified are permitted to vote, then the privilege of voting becomes meaningless and worthless. Hence, it stands to reason that the laws of our State, setting up the legal machinery to purge the rolls of unqualified registrats, are just as important and just as vital to the welfare of our State as is the right to vote itself. The extent to which we yield to political influence, selfish interests or pressure groups, to this extent are we jeopardizing our freedom and liberty and the

American way of life. It is the solemn duty of every public official and every private citizen to lay aside personal interests to permit every qualified citizen of this State to cast his ballot for whom he chooses, free of duress or influence; but it is equally his duty to see that no unqualified or illegal voter shares this privilege.

The Registrars of Voters of this State deserve and are entitled to the support and encouragement of every right-thinking man and woman in this State in helping them enforce the
87-P law and prevent illegal registration. Only by the help of the legal and right-thinking citizens of this State can the Registrars perform their duty and keep the poll lists in a healthy condition. If we fail to do this, we will eventually have to pay the price for our negligence and complacency.

At the hearing on the rule, it was inadvertently stated by the Court that these proceedings would be conducted without cost. A re-examination of the applicable provisions of the law (L.R.S.; 92 and 134; Article VIII, Sec. 5, Louisiana Constitution) has convinced us that these proceedings do not fall within the purview of any of these provisions and is, consequently, not exempt from costs. Accordingly, and in accordance with L.R.S. 13:4240, it is ordered that plaintiff pay all costs of these proceedings.

Dated this 6 day of April, 1959.

C. A. BARNETT,
District Judge.

88 [Certificate of reporting omitted in printing.]

In United States District Court

Plaintiffs note of evidence

Filed Nov. 13, 1959

Pursuant to the order of this court of October 12, 1959, the United States of America, plaintiff herein, files in the record in this case this date the following documents to be offered in evidence in support of its position:

1. Charter of the Citizens Council of Washington Parish.
2. Letter dated November 9, 1959 from the Secretary to the Director of the State Board of Registration, giving

89 the total number of registered voters, the number of white voters, the number of colored voters as of October 6, 1956 in Washington Parish.

3. The monthly reports of the State Board of Registration, State of Louisiana, showing the registered voters in all parishes of the State for the months ending October 4, 1958, November 30, 1958, May 31, 1959 and June 30, 1959.

4. Two photographs of the registration cards of the defendants E. Ray McElveen, Diaz D. McElveen, Saxon Farmer, and Eugene Farmer.

5. Fifty-one photographs of Negro registration cards, Affidavits of Challenge, and Citations to Erase for each of the original Negro registrants cited in the complaint filed by the Government against the defendants in this case.

6. Twenty-seven photographs of white registration cards, Affidavits of Challenge, and Citations to Erase for those nine white registrants originally challenged by the defendants.

7. One hundred photographs of white registration cards of various individuals picked at random from various precincts and wards.

8. Four hundred and fourteen photographs of Negro registration cards, Affidavits of Challenge, and Citations to Erase, picked at random from those registrants in Washington Parish who had been challenged by the defendants in this case.

9. Transcript of the testimony of Curtis M. Thomas, Registrar of Washington Parish, taken by the plaintiff pursuant to the provisions of the Federal Rules of Civil Procedure on November 9, 1959.

Respectfully submitted.

(S) W. HEPBURN MANY,
United States Attorney.

89-A CHARTER OF THE CITIZEN'S COUNCIL OF WASHINGTON PARISH

Articles of Incorporation

Be it known, that on this the 21st day of December, 1956, before me, ROBERT T. RESTER, a Notary Public, in and for the Parish of Washington, State of Louisiana, duly commissioned

and qualified, personally came and appeared the several persons hereinafter named and undersigned all of full age and residents of the State of Louisiana.

Who, in the presence of the undersigned competent witnesses, declare that, availing themselves of the provisions of the Laws of the State of Louisiana relating to non-profit corporations, they do hereby organize a non-profit corporation as defined in R.S. 12: 101 (H) under and in accordance with these articles of incorporation.

Article I.

The name of the said corporation is The Citizen's Council of Washington Parish.

Article II

The objects and purposes for which this corporation is formed are as follows, to-wit:

1) To protect and preserve by all legal means, our historical Southern Social Institutions in all of their aspects:

2) To marshal the economic resources of the good citizens of this community and surrounding area in combatting any attack upon these social institutions;

3) To make studies, compile data, ascertain and publish facts, educate, inform and advise the members of this corporation and the public upon these subjects;

4) To teach the members of this corporation and the public the basic principles of government as set forth in the Constitution of the United States; to instruct them as to their duties and responsibilities as well as their rights and liberties as citizens of the State of Louisiana and the United States; to encourage them in their efforts in the protection and preservation of our American way of life; to reveal the true basic elements of Socialism and Communism so as to fortify them to reject the assault which is constantly being waged upon our institutions by the Socialistic and Communistic forces in the country.

5) To take, receive, hold, convey, mortgage, or assign any and all such real estate and/or personal property as may be necessary for the purpose of this corporation;

6) And, in furtherance of these purposes, to do each and everything necessary that a non-profit corporation may legally do under the statutes of the State of Louisiana.

Article III

This corporation is and shall remain an independent, wholly self-governing corporate body and though it may cooperate with other organizations for the purpose of carrying out any of the corporate objectives, shall never surrender any of its powers or authority to any other corporation, organization or individual.

Article IV

The said corporation shall exist for the full term of ninety-nine (99) years from and after date hereof.

Article V

The registered office of the corporation shall be at 1021 Main Street, Bogalusa, Washington Parish, State of Louisiana.

Article VI

The registered agents of this corporation who shall serve until their successors are selected as provided by the by-laws, are:

1) E. R. McElveen, 423 North Border Drive, Bogalusa, Louisiana

2) Saxon Farmer, 315 East 5th. Street, Bogalusa, Louisiana

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Article VII

The full names and addresses of the incorporators of this corporation are:

1) E. R. McElveen, 423 North Border Drive, Bogalusa, Louisiana

2) Saxon Farmer, 315 East 5th. Street, Bogalusa, Louisiana

3) Douglas Fortenberry, 1021 Main Street, Bogalusa, Louisiana

Article VIII

The corporation shall have no capital stock. Any citizen of Washington Parish, Louisiana, or its environs who is of good

character and who is in accord with the principles and policies of this society, may become a member of this society, upon approval of his application by the Board of Directors.

The Board of Directors may also base membership upon special contributions and issue appropriate certificates of membership to persons entitled thereto, provided that such issuance shall be subject to the general requirement for all memberships that each member shall have only one (1) vote at any regular or special meeting of the membership.

The individual and personal liability of each member of the corporation shall be limited to the payment of dues and membership fees for any current year as pledged by such member.

Article IX

1. (a) The corporation shall have a Board of Directors not exceeding twelve members, who shall serve without compensation. The control and government of the corporation shall be vested in the Board of Directors, who shall exercise all such powers and do all such acts and things as are authorized in the By-laws or that may be necessary for the conducting of the business of the corporation. In this connection, the Board of Directors by a majority vote, at any regular or special meeting, is especially granted the authority to expel any member from membership in the corporation if it feels that such expulsion is necessary for the good of the corporation.

(b) The Board of Directors is especially granted the power and authority to make endowment loans or grants, upon such terms and conditions as it may deem desirable, to any individual, group, organization or corporation in furtherance of the purposes set forth herein and to use the funds and credits of this corporation for such loans or grants.

2. The first Board of Directors shall consist of the following named individuals:

Name—Address

E. R. McElveen, 423 N. Border Dr., Bogalusa, La.
Douglas Fortenberry, 1021 Main St., Bogalusa, La.
C. T. Daniel, Bankston Dr., Bogalusa, La.
J. C. Tannehill, 1228 Marshall Richardson Rd., Bogalusa, La.

W. P. Rushing, 613 Sabine St., Bogalusa, La.
Russell Magee, Franklinton, Louisiana
J. D. Fendalson, 414 Miss. Ave., Bogalusa La.
Saxon Farmer, 315 E. 5th St., Bogalusa, La.

who shall serve until their successors have been duly elected and qualified. Any vacancy occuring during the terms of office of any Director may be filled by the remaining directors for the unexpired term.

3. The Board of Directors shall, at a regular or special meeting of the board held for that purpose, adopt the by-laws of this corporation and provide therein the method of amending or repealing same.

Article X

The officers of this corporation shall be a President, who shall be a member of the Board of Directors, an Executive Vice-President and a Secretary-Treasurer, and such other officers as may be provided in the By-laws of this corporation, all of whom shall be elected by the Board of Directors at the first meeting thereof and all of said officers shall be natural persons of the full age of majority. The said officers shall serve for a term of one (1) year unless otherwise provided in the By-laws, or until their successors are elected and qualified and their compensation shall be fixed by the Board of Directors.

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Article XI

The corporation shall be authorized to begin business upon the issuance of membership certificates.

Thus done and passed, at Bogalusa, Washington Parish, Louisiana, on the day, month, and the year first above written in the presence of Willena Kindy and Irene Cutrer, competent witnesses residing in this city, who have hereto signed their names with appearers and me, Notary, after reading the whole.

E. R. McElveen.
E. R. McElveen.
Saxon Farmer.
Saxon Farmer.
Douglas Fortenberry.
Douglas Fortenberry.

Witnesses:
Willena Windy.
WILLENA KINDY.
Irene Cutrer.
IRENE CUTRER.

A true copy of the original:

Robert T. Rester.
ROBERT T. RESTER,
Notary Public.

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EDGAR A. CODD
DIRECTOR
AND
EX OFFICIO SECRETARY

STATE OF LOUISIANA
BOARD OF REGISTRATION
STATE CAPITOL
BATON ROUGE

November 9, 1959

MEMBERS
EARL K. LONG, GOVERNOR
LESTER E. FRAZAR, LIEUTENANT GOVERNOR
ROBERT ANGELLE, SPEAKER OF THE
HOUSE OF REPRESENTATIVES

H. Hepburn Many
United States Attorney
New Orleans 12, Louisiana

Dear Mr. Many:

The records of this office reflect that for the date of October 6, 1956, in Washington Parish, Louisiana are as follows:

TOTAL NUMBER OF REGISTERED VOTERS	17,372
NUMBER OF WHITE VOTERS	15,483
NUMBER OF COLORED VOTERS	1,889

Very truly yours,

Beatrice R. Harris

Beatrice R. Harris
Secretary to Director

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REPORT FOR MONTH ENDING OCTOBER 6, 1938

* Permanent Registration

State of Louisiana
Board of Registration
State Capitol
Baton Rouge

PARISH	TOTAL NUMBER OF REGISTERED VOTERS	NUMBER OF WHITE VOTERS	NUMBER OF COLORED VOTERS	NUMBER OF WHITE ILLITERATES	NUMBER OF COLORED ILLITERATES	TOTAL NUMBER OF DEMOCRATIC	NUMBER OF WHITE DEMOCRATS
* Acadia	21,899	18,395	3,504	2,476	985	21,797	18,293
* Allen	8,816	7,053	1,763	383	206	8,816	7,053
* Ascension	9,696	7,982	2,034	280	201	9,384	7,371
* Assumption	6,720	6,231	1,989	450	450	6,717	6,728
* Avoyelles	30,173	16,065	2,128	831	743	16,132	14,026
* Beauregard	7,280	6,268	1,060	68	68	7,270	6,730
* Bienville	6,787	6,758	28	8	1	6,778	6,752
* Bossier	10,657	9,826	831	65	1	10,252	9,730
* Caddo	57,055	53,212	3,843	20	0	54,583	50,821
* Calcasieu	41,967	35,603	6,364	1,007	835	41,302	35,143
Caldwell	2,541	2,536	38	13	0	2,566	2,528
Cameron *	2,042	1,887	75	66	4	1,929	1,924
Catahoula	2,608	2,233	187	41	0	2,609	2,222
* Claiborne	5,282	5,087	15	12	0	5,092	5,081
Concordia	2,257	2,081	176	9	0	2,245	2,069
* DeSoto	6,012	5,518	683	19	0	5,972	5,489
* E. Baton Rouge	63,654	54,560	9,094	522	4	62,717	53,791
E. Carroll	2,011	2,011	0	21	0	2,011	2,011
* E. Feliciana	2,888	2,668	420	6	1	2,890	2,668
* Evangeline	15,981	12,815	3,086	2,099	1,394	15,867	12,806
Franklin	6,604	6,100	304	25	8	6,670	6,175
Grant	5,227	4,758	325	207	74	5,266	4,741
* Iberia	18,986	16,682	4,112	1,709	1,825	18,509	14,397
* Iberville	7,053	5,817	1,936	131	61	7,791	5,891
* Jackson	5,314	4,956	360	28	10	5,302	4,946
* Jefferson	66,263	58,511	6,753	856	503	64,874	58,213
* Jefferson Davis	10,838	9,169	1,661	714	285	10,817	9,156
* Lafayette	17,121	14,135	2,996	843	436	16,829	13,909
* Lafourche	32,879	30,926	1,953	2,366	385	32,874	30,921
Lasalle	5,088	4,991	157	31	2	5,063	4,892
Lincoln	5,185	4,696	489	0	0	5,088	4,422
Livingston	7,107	6,343	564	52	31	7,089	6,525
Madison	1,277	1,277	0	41	0	1,266	1,266
Morehouse	4,789	4,573	307	0	0	4,744	4,560
Natchitoches	7,509	6,114	1,395	121	40	7,615	6,059
* Orleans	300,464	168,719	31,747	749	391	189,623	165,653
* Ouachita	36,335	33,768	767	90	0	34,263	33,495
* Plaquemines	6,780	6,761	69	152	1	6,761	6,716
Pointe Coupee	3,767	3,131	636	36	1	3,758	3,118
* Rapides	38,363	23,726	2,881	299	53	38,134	23,368
Red River	1,065	1,050	15	22	8	1,057	1,043
Richland	v 4,455	4,273	179	7	0	4,488	4,259
* Sabine	9,135	7,863	1,498	273	123	9,134	7,631
St. Bernard	8,142	7,814	328	90	25	8,112	7,784
* St. Charles	6,490	4,977	1,473	31	151	6,633	4,966
St. Helena	2,750	1,694	1,036	13	36	2,742	1,692
* St. James	6,284	4,991	2,173	77	211	6,223	4,864
* St. John	4,655	2,645	2,010	114	387	4,494	2,434
* St. Landry	22,493	15,356	7,141	655	864	22,451	15,326
* St. Martin	9,650	7,144	2,506	952	614	9,560	7,128
St. Mary	12,980	10,294	2,646	423	237	12,870	10,233
* St. Tammany	16,185	14,115	2,070	83	156	16,004	13,976
* Tangipahoa	21,015	17,341	3,674	231	172	20,961	17,480
Tensas	938	938	0	0	0	923	923
* Terrebonne	12,192	11,193	999	611	36	12,156	11,160
* Union	4,293	3,925	368	58	4	4,255	3,907
* Vermilion	18,737	16,858	1,881	2,721	389	18,735	16,830
Vernon	8,063	7,823	240	74	11	8,038	7,610
* Washington	12,861	11,664	1,197	72	3	12,882	11,420
Webster	8,088	8,012	80	2	0	8,015	7,937
W. Baton Rouge	2,303	1,687	616	14	0	2,282	1,682
W. Carroll	3,350	3,280	70	47	0	3,300	3,233
W. Feliciana	403	403	0	14	0	402	402
Winn	5,168	4,683	485	0	8	5,162	4,683
TOTALS	968,267	816,843	129,624	23,611	12,944	936,122	806,538
						100%	86%
	1888	84%	14%	2%	1%		76.7%

1,504	30	30	0	2	2	0	
1,763	2	2	0	0	0	0	
2,021	10	7	3	0	0	0	
1,888	2	2	0	1	1	0	
2,104	36	15	21	5	4	1	As of 8/31/56
1,060	17	17	0	1	1	0	
27	7	6	1	1	1	0	
322	117	114	3	88	82	6	As of 8/31/56
3,762	2,056	1,898	58	418	395	23	
5,269	450	333	97	125	107	18	
38	0	0	0	6	6	0	
73	3	3	0	0	0	0	
187	0	0	0	0	0	0	
14	5	5	0	2	1	1	
176	11	11	0	1	1	0	
483	23	20	3	17	10	7	
8,886	492	432	56	442	330	112	
0	4	4	0	0	0	0	
450	1	1	0	0	0	0	
3,081	32	7	25	3	3	0	
293	11	4	7	5	1	3	
525	10	10	0	1	1	0	As of 8/31/56
4,112	81	81	0	4	4	0	
1,900	36	36	0	0	0	0	
350	8	7	1	0	0	0	
6,641	876	818	58	513	480	33	
1,661	12	12	0	1	1	0	
2,929	366	186	62	66	41	5	
1,953	5	5	0	0	0	0	
131	11	7	4	4	2	2	
466	29	25	4	10	9	1	
344	18	18	0	0	0	0	
0	10	10	0	1	1	0	
304	36	32	4	2	1	1	
1,356	42	20	22	22	22	17	
20,772	3,013	2,318	695	1,028	748	280	
748	274	263	11	18	10	8	
42	28	28	0	3	3	0	As of 3/30/56
630	9	9	0	0	0	0	As of 8/31/56
2,786	128	117	11	263	239	24	
14	7	6	1	1	1	0	
168	18	7	11	8	8	0	
1,492	11	11	0	0	0	0	
328	26	26	0	4	4	0	
1,469	13	11	2	4	2	2	
1,090	8	2	6	0	0	0	
2,157	31	15	16	0	0	0	
1,990	20	6	14	11	5	6	
7,127	34	21	13	10	9	1	
3,432	27	11	16	63	5	58	
2,637	34	15	9	6	6	0	
2,028	127	103	24	34	34	18	
3,461	70	59	11	4	2	2	
0	3	3	0	0	0	0	
994	31	26	5	7	7	0	
368	19	8	11	19	10	9	
1,885	2	2	0	0	0	0	
636	38	12	14	1	1	0	
1,648	48	18	22	39	6	33	
78	35	33	2	12	12	0	
867	3	3	0	0	0	0	
67	27	25	2	3	2	1	
0	0	0	0	1	1	0	
539	5	0	5	1	0	1	
127,384	8,883	7,443	1,361	3,332	2,643	679	
100%	100%	97%	15%	100%	80%	20%	
		8.3%			0.4%		

89–F

RE. ORT FOR MONTH ENDING NOVEMBER 30, 1938

* Permanent Registration

State of Louisiana
Board of Registration
State Capitol
Baton Rouge

PARISH	TOTAL NUMBER OF REGISTERED VOTERS	NUMBER OF WHITE VOTERS	NUMBER OF COLORED VOTERS	NUMBER OF WHITE ILLITERATES	NUMBER OF COLORED ILLITERATES	TOTAL NUMBER OF REGISTERED DEMOCRATS	NUMBER OF WHITE DEMOCRATS
Acadia	21,827	18,323	3,504	2,476	995	21,795	18,291
Allen	8,824	7,039	1,785	323	284	8,822	7,057
Ascension	9,420	7,386	2,034	220	281	9,410	7,389
Assumption	6,720	4,731	1,989	650	420	6,717	4,728
Avoyelles	16,010	14,056	1,954	851	723	15,972	14,037
Beauregard	7,788	6,748	1,040	49	62	7,770	6,730
Bienville	4,787	4,759	28	8	1	4,779	4,752
Bossier	10,455	9,983	472	71	1	10,238	9,774
Caddo	53,688	31,222	4,466	20	0	52,902	49,022
Calcasieu	42,044	35,674	6,370	1,009	835	41,644	35,210
Caldwell	2,583	2,545	38	13	0	2,577	2,539
Cameron	2,026	1,948	78	66	4	2,021	1,943
Catahoula	2,409	2,222	187	41	0	2,409	2,222
Claiborne	5,702	5,687	15	12	0	5,695	5,681
Concordia	2,263	2,087	176	0	0	2,251	2,075
DeSoto	6,006	5,511	493	19	0	5,994	5,681
E. Baton Rouge	63,651	34,559	9,092	522	4	62,722	33,789
E. Carroll	2,015	2,015	0	21	0	2,011	2,011
E. Feliciana	2,899	2,449	450	6	1	2,898	2,448
Evangeline	15,888	12,814	3,074	2,089	1,578	15,865	12,805
Franklin	6,484	6,180	304	25	8	6,470	6,175
Grant	5,277	4,752	525	207	74	5,266	4,741
Iberia	18,545	14,436	4,109	1,689	1,826	18,460	14,351
Iberville	7,863	3,927	1,936	131	81	7,801	5,901
Jackson	5,316	4,956	360	28	10	5,302	4,964
Jefferson	66,442	39,610	6,832	857	506	65,051	58,314
Jefferson Davis	10,830	9,169	1,661	714	285	10,817	9,156
Lafayette	17,121	14,125	2,996	843	626	16,829	13,900
Lafourche	22,879	20,926	1,953	2,344	325	22,874	20,921
LaSalle	5,062	4,905	157	51	2	5,047	4,896
Lincoln	5,135	4,665	470	0	0	5,099	4,631
Livingston	7,107	6,543	564	52	31	7,089	6,525
Madison	1,314	1,314	0	41	0	1,303	1,303
Morehouse	4,784	4,579	205	0	0	4,748	4,544
Natchitoches	7,530	6,134	1,396	122	40	7,437	6,079
Orleans	194,984	163,494	31,490	781	342	190,964	160,460
Ouachita	22,759	21,983	776	43	0	22,678	21,718
Plaquemines	4,790	4,741	49	132	1	4,765	4,716
Pointe Coupee	3,818	3,183	635	24	1	3,809	3,174
Rapides	28,131	25,363	2,768	289	49	27,755	25,020
Red River	1,976	1,959	17	22	0	1,963	1,948
Richland	4,652	4,273	379	7	0	4,426	4,258
Sabine	9,133	7,643	1,492	273	123	9,126	7,636
St. Bernard	8,194	7,854	340	85	29	8,161	7,821
St. Charles	6,357	5,042	1,695	31	151	6,340	5,049
St. Helena	2,743	1,704	1,039	13	54	2,755	1,702
St. James	6,346	4,073	2,173	77	211	6,216	4,057
St. John	4,435	2,445	2,010	114	387	4,426	2,436
St. Landry	22,650	15,469	7,181	439	952	22,602	15,438
St. Martin	9,650	7,144	2,506	952	614	9,560	7,128
St. Mary	12,903	10,344	2,559	335	175	12,876	10,227
St. Tammany	16,192	14,122	2,070	83	134	16,011	13,983
Tangipahoa	21,013	17,539	3,474	230	172	20,939	17,478
Tensas	928	928	0	0	0	923	923
Terrebonne	12,242	11,237	1,005	611	24	12,203	11,202
Union	4,301	3,933	368	52	4	4,263	3,915
Vermilion	18,753	16,863	1,890	2,721	512	18,731	16,861
Vernon	8,063	7,423	640	74	11	8,034	7,410
Washington	12,951	11,444	1,317	72	3	12,882	11,420
Webster	8,342	8,262	80	2	0	8,275	8,197
W. Baton Rouge	2,313	1,700	613	16	0	2,312	1,698
W. Carroll	3,459	3,389	70	47	0	3,431	3,344
W. Feliciana	903	903	0	13	0	902	902
Winn	5,148	4,483	665	0	0	5,142	4,481
TOTALS	930,774	808,872	129,902	23,526	11,850	926,359	798,969
						100%	86%
	100%	86%	14%	2%	1%		98.7%

NUMBER OF COLORED DEMOCRATS	TOTAL NUMBER OF REGISTERED REPUBLICANS	NUMBER OF WHITE REPUBLICANS	NUMBER OF COLORED REPUBLICANS	TOTAL NUMBER OF REGISTERED OTHER PARTIES	NUMBER OF WHITE OTHER PARTIES	NUMBER OF COLORED OTHER PARTIES	
3,504	30	30	0	2	2	0	
1,745	2	2	0	0	0	0	
2,021	10	7	3	0	0	0	
1,989	2	2	0	1	1	0	
1,935	33	15	18	5	4	1	
1,040	17	17	0	1	1	0	
27	7	6	1	1	1	0	
444	116	114	2	101	95	6	
3,880	1,911	1,841	70	875	359	516	
6,254	453	355	98	127	109	18	
38	0	0	0	6	6	0	
76	3	3	0	0	0	0	
187	0	0	0	0	0	0	
14	5	5	0	2	1	1	As of 10/4/58
176	11	11	0	1	1	0	
493	23	20	3	17	10	7	
8,933	494	440	54	435	330	105	
0	4	4	0	0	0	0	
450	1	1	0	0	0	0	As of 10/6/58
3,060	21	7	14	3	2	0	
295	11	4	7	3	1	2	As of 10/4/58
525	10	10	0	1	1	0	As of 8/31/58
4,109	81	81	0	4	4	0	
1,800	36	26	10	6	0	6	
358	8	7	1	6	5	1	As of 10/4/58
6,737	877	818	59	514	478	36	
1,861	12	12	0	1	1	0	As of 10/4/58
2,929	244	184	62	46	41	5	
1,953	5	5	0	0	0	0	As of 10/6/58
151	11	7	4	4	2	2	
465	29	25	4	10	9	1	
564	18	18	0	0	0	0	As of 10/6/58
0	10	10	0	1	1	0	
202	34	32	2	2	1	1	
1,358	41	20	21	52	35	17	
20,524	2,991	2,299	692	1,029	755	274	
760	255	244	11	26	21	5	
49	20	20	0	5	5	0	As of 3/30/56
635	9	9	0	0	0	0	
2,735	124	113	11	252	230	22	
14	7	6	1	4	4	0	
168	18	7	11	8	8	0	As of 10/6/58
1,492	11	11	0	0	0	0	As of 10/6/58
360	28	28	0	5	5	0	
1,491	13	11	2	4	2	2	
1,053	8	2	6	0	0	0	
2,159	31	15	16	1	1	0	
1,990	20	6	14	11	5	6	As of 10/4/58
7,167	35	22	13	10	9	1	
2,432	27	11	16	63	5	58	As of 10/4/58
2,649	24	14	10	5	5	0	
2,028	127	103	24	55	36	18	
3,461	70	59	11	5	2	2	
0	5	5	0	0	0	0	As of 10/4/58
1,000	32	27	5	7	7	0	
348	19	8	11	19	10	9	
1,890	2	2	0	0	0	0	
624	28	12	16	1	1	0	
1,462	40	18	22	39	6	33	As of 10/4/58
78	55	53	2	13	13	0	
614	3	2	1	0	0	0	
67	25	23	2	3	2	1	
0	0	0	0	1	1	0	
532	1	0	1	1	0	1	As of 10/4/58
127,390	8,624	7,269	1,355	3,791	2,634	1,157	
34%	100%	84%	16%	100%	69%	31%	
		0.9%			0.4%		

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REPORT FOR MONTH ENDING May 31, 1939

* Permanent Registration

State of Louisiana
Board of Registration
State Capitol
Baton Rouge

PARISH	TOTAL NUMBER OF REGISTERED VOTERS	NUMBER OF WHITE VOTERS	NUMBER OF COLORED VOTERS	NUMBER OF WHITE ILLITERATES	NUMBER OF COLORED ILLITERATES	TOTAL NUMBER OF REGISTERED DEMOCRATS	NUMBER OF WHITE DEMOCRATS
* Acadia	22,009	18,517	3,492	2,659	980	21,976	18,485
* Allen	8,937	7,182	1,775	322	280	8,933	7,178
* Ascension	9,556	7,567	1,989	221	285	9,550	7,561
* Assumption	6,805	4,810	1,995	641	415	6,801	4,806
* Avoyelles	15,389	13,540	1,849	732	696	15,360	13,524
* Beauregard	7,926	6,887	1,039	45	60	7,908	6,869
* Bienville	4,722	4,695	27	8	1	4,716	4,688
* Bossier	10,295	9,765	530	65	1	10,090	9,567
* Caddo	56,183	51,588	4,585	31	0	51,403	49,403
* Calcasieu	42,830	36,371	6,459	1,039	841	42,213	35,890
Caldwell	2,817	2,776	41	13	0	2,811	2,770
* Cameron	2,201	2,115	86	73	5	2,196	2,111
* Catahoula	2,730	2,511	219	43	0	2,730	2,511
* Claiborne	5,463	5,448	15	12	0	5,456	5,442
Concordia	4,169	3,878	291	0	0	4,154	3,863
* DeSoto	6,041	5,552	489	18	0	6,001	5,512
* E Baton Rouge	63,987	54,892	9,095	521	4	63,042	54,114
E Carroll	2,185	2,185	0	21	0	2,181	2,181
* E Feliciana	2,899	2,449	450	6	1	2,898	2,448
* Evangeline	16,110	13,006	3,104	2,074	1,575	16,085	12,996
Franklin	6,549	6,195	354	29	8	6,533	6,189
Grant	5,397	4,867	530	208	75	5,386	4,857
* Iberia	19,317	15,057	4,260	1,756	1,922	19,238	14,978
* Iberville	7,959	6,017	1,938	142	59	7,893	5,992
* Jackson	5,382	5,018	364	28	10	5,368	5,004
* Jefferson	69,012	61,958	7,054	871	533	67,579	60,638
* Jefferson Davis	10,070	8,688	1,582	560	233	10,033	8,656
* Lafayette	19,283	15,974	3,309	967	742	18,949	15,731
* Lafourche	23,156	21,205	1,969	2,342	325	23,148	21,200
LaSalle	5,152	4,995	157	51	2	5,138	4,987
Lincoln	5,596	5,081	513	2	0	5,588	5,031
Livingston	8,355	7,664	691	60	41	8,336	7,643
Madison	1,601	1,601	0	47	0	1,588	1,588
Morehouse	5,152	4,912	240	0	0	5,115	4,879
Natchitoches	7,895	6,459	1,436	124	1	7,805	6,405
* Orleans	194,568	162,998	31,570	809	383	190,794	160,163
* Ouachita	29,096	22,319	775	43	0	22,795	22,031
* Plaquemines	5,898	5,854	44	137	1	5,837	5,802
Pointe Coupee	6,274	5,608	666	36	1	6,245	5,599
* Rapides	28,311	25,548	2,763	285	49	27,936	25,204
Red River	2,430	2,414	16	22	0	2,422	2,407
Richland	4,705	4,515	190	8	0	4,682	4,501
* Sabine	9,170	7,678	1,492	273	123	9,159	7,667
St Bernard	10,467	10,005	462	101	36	10,424	9,962
* St Charles	7,712	5,971	1,741	48	168	7,680	5,969
St Helena	2,921	1,830	1,091	15	37	2,910	1,826
* St James	6,396	4,157	2,239	76	210	6,368	4,142
* St John	4,899	2,714	2,185	128	404	4,868	2,702
* St Landry	24,234	18,360	5,874	713	978	24,190	18,330
* St Martin	9,587	7,057	2,530	910	638	9,497	7,041
St Mary	13,234	10,546	2,688	372	173	13,205	10,524
* St Tammany	16,408	14,333	2,075	78	150	16,228	14,197
* Tangipahoa	21,314	17,829	3,485	330	170	21,260	17,771
Tensas	1,044	1,044	0	0	0	1,039	1,038
* Terrebonne	12,922	11,862	1,060	675	35	12,881	11,804
Union	4,634	4,257	377	57	4	4,588	4,235
* Vermilion	19,026	17,103	1,923	2,726	510	19,024	17,101
Vernon	8,282	7,690	592	73	12	8,260	7,677
* Washington	13,411	11,877	1,534	72	3	13,337	11,833
Webster	8,688	8,605	83	2	0	8,617	8,536
W. Baton Rouge	2,795	2,076	719	0	0	2,792	2,074
W. Carroll	1,968	1,897	71	53	0	1,935	1,864
W. Feliciana	986	986	0	12	0	986	986
Winn	5,758	5,018	740	0	0	5,754	5,014
TOTALS	964,277	831,366	132,911	22,962	13,224	951,892	821,512
						100%	86.3%
	100%	86.2%	13.8%	2.4%	1.4%		98.7%

NUMBER OF COLORED DEMOCRATS	TOTAL NUMBER OF REGISTERED REPUBLICANS	NUMBER OF WHITE REPUBLICANS	NUMBER OF COLORED REPUBLICANS	TOTAL NUMBER OF REGISTERED OTHER PARTIES	NUMBER OF WHITE OTHER PARTIES	NUMBER OF COLORED OTHER PARTIES	
3,491	31	30	1	2	2	0	
1,775	4	4	0	0	0	0	
1,987	4	4	2	0	0	0	
1,995	3	3	0	1	1	0	
1,836	25	12	13	4	4	0	
1,039	17	17	0	1	1	0	
26	7	6	1	1	1	0	
523	113	110	3	92	88	4	
3,996	1,898	1,826	72	882	365	517	
6,333	470	363	107	147	129	18	
41	0	0	0	6	6	0	
85	5	4	1	0	0	0	
219	0	0	0	0	0	0	
14	5	5	0	2	2	0	
291	14	14	0	1	1	0	
479	22	20	2	17	10	7	
8,928	486	434	52	459	344	115	As of 1/31/59
0	4	4	0	0	0	0	
650	1	1	0	0	0	0	As of 10/58
3,089	21	7	14	4	3	1	
344	11	4	7	3	2	1	
529	11	10	1	0	0	0	
4,260	77	77	0	2	2	0	
1,903	53	25	28	7	0	7	
362	8	7	1	6	5	1	
6,961	880	817	63	553	503	50	
1,577	28	21	7	13	11	2	
3,218	280	197	83	54	46	8	
1,949	5	5	0	0	0	0	
151	10	6	4	4	2	2	
507	31	26	5	25	24	1	
691	20	20	0	1	1	0	
0	10	10	0	3	3	0	
236	17	14	3	20	19	1	
1,400	38	18	19	52	35	17	
30,831	2,819	2,142	677	955	693	262	
764	264	253	11	35	35	0	
35	22	22	0	40	30	10	
666	9	9	0	0	0	0	
2,732	129	109	11	255	225	30	
15	7	6	1	1	1	0	
181	17	8	9	8	8	0	
1,492	11	11	0	0	0	0	
462	32	32	0	11	11	0	
1,740	17	17	0	6	5	1	
1,086	11	6	5	0	0	0	
2,228	27	14	13	1	1	0	As of 4/58
2,164	20	7	13	11	5	6	
7,860	34	21	13	10	9	1	
2,456	27	11	16	63	5	58	
2,679	25	16	9	4	4	0	As of 3/58
2,031	124	100	24	54	36	18	As of 4/58
1,469	67	56	11	7	2	5	
0	5	5	0	0	0	0	
1,075	54	29	5	7	7	0	
353	19	8	11	27	14	13	
1,923	2	2	0	0	0	0	
583	22	13	9	0	0	0	
1,484	38	18	20	36	6	30	As of 2/58
81	54	54	2	15	15	0	As of 3/58
718	3	2	1	0	0	0	As of 4/58
69	22	20	2	11	11	0	
0	0	0	0	0	0	0	
738	3	1	2	1	1	0	As of 2/58
130,380	8,465	7,114	1,351	3,920	2,740	1,180	
13.7%	100%	84.0%	16.0%	100%	69.9%	30.1%	
		0.9%			0.4%		

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REPORT FOR MONTH ENDING June 30, 1939

* Permanent Registration

State of Louisiana
Board of Registration
State Capitol
Baton Rouge

PARISH	TOTAL NUMBER OF REGISTERED VOTERS	NUMBER OF WHITE VOTERS	NUMBER OF COLORED VOTERS	NUMBER OF WHITE ILLITERATES	NUMBER OF COLORED ILLITERATES	TOTAL NUMBER OF REGISTERED DEMOCRATS	NUMBER OF WHITE DEMOCRATS
Acadia	22,147	18,613	3,534	2,092	984	22,113	18,583
Allen	8,995	7,217	1,778	324	290	8,991	7,213
Ascension	9,546	7,558	1,988	221	286	9,540	7,554
Assumption	6,833	4,832	2,001	643	417	6,829	4,828
Avoyelles	13,902	13,553	1,349	732	696	13,373	13,537
Beauregard	7,967	6,908	1,059	68	57	7,929	6,890
Bienville	6,739	6,712	27	8	1	6,733	6,707
Bossier	10,383	9,851	532	64	1	10,175	9,650
Caddo	56,393	51,794	4,599	32	0	53,647	49,638
Calcasieu	42,978	36,507	6,471	1,042	842	42,358	36,013
Caldwell	2,841	2,800	41	13	0	2,835	2,794
Cameron	2,217	2,131	86	73	5	2,212	2,127
Catahoula	2,788	2,568	220	44	0	2,788	2,568
Claiborne	5,468	5,453	15	12	0	5,460	5,446
Concordia	4,194	3,902	292	0	0	4,179	3,887
DeSoto	6,062	5,568	494	18	0	6,022	5,538
E. Baton Rouge	65,707	56,435	9,272	524	4	64,623	55,531
E. Carroll	2,189	2,189	0	22	0	2,179	2,179
E. Feliciana	1,684	1,634	50	7	0	1,682	1,632
Evangeline	16,175	13,067	3,108	2,076	1,576	16,149	13,057
Franklin	6,591	6,237	354	29	8	6,575	6,221
Grant	5,442	4,907	535	208	75	5,431	4,897
Iberia	19,477	15,198	4,279	1,781	1,926	19,399	15,120
Iberville	8,005	6,063	1,942	143	59	7,942	6,036
Jackson	5,385	5,019	366	28	10	5,372	5,008
Jefferson	69,553	62,470	7,083	870	533	68,113	61,146
Jefferson Davis	10,110	8,524	1,586	561	253	10,075	8,492
Lafayette	19,516	16,157	3,359	977	756	19,169	15,908
Lafourche	23,255	21,304	1,951	2,345	325	23,250	21,299
LaSalle	5,201	5,044	157	52	2	5,187	5,036
Lincoln	5,649	5,133	516	2	0	5,591	5,081
Livingston	8,957	8,239	718	73	42	8,935	8,217
Madison	1,633	1,633	0	48	0	1,607	1,607
Morehouse	5,190	4,953	237		0	5,153	4,917
Natchitoches	7,963	6,518	1,425	125	1	7,854	6,445
Orleans	195,824	164,075	31,749	842	376	192,066	161,257
Ouachita	22,591	21,830	761	43	0	22,292	21,543
Plaquemines	6,094	6,054	45	139	1	6,038	6,003
Pointe Coupee	4,274	3,608	666	36	9	4,265	3,599
Rapides	28,327	25,569	2,758	282	49	27,955	25,227
Red River	2,491	2,475	16	22	0	2,483	2,468
Richland	4,735	4,545	190	8	0	4,713	4,532
Sabine	9,170	7,678	1,492	273	123	9,159	7,667
St Bernard	10,752	10,287	465	101	36	10,709	10,265
St Charles	7,729	5,987	1,742	47	167	7,706	5,965
St Helena	2,912	1,839	1,073	13	51	2,901	1,837
St James	6,668	4,172	2,496	76	213	6,640	4,157
St John	5,031	2,799	2,232	129	609	5,000	2,787
St Landry	34,178	16,466	7,912	741	1,003	26,336	16,436
St Martin	9,587	7,057	2,530	910	638	9,497	7,041
St Mary	13,206	10,546	2,688	372	172	13,205	10,529
St Tammany	16,486	14,333	2,073	78	150	16,228	14,197
Tangipahoa	21,367	17,860	3,487	226	143	21,274	17,802
Tensas	1,047	1,047	0	0	0	1,062	1,062
Terrebonne	13,292	12,191	1,101	697	35	13,250	12,154
Union	4,646	4,269	377	57	4	4,600	4,267
Vermilion	19,096	17,162	1,934	2,723	511	19,094	17,160
Vernon	8,346	7,213	633	76	12	8,323	7,699
Washington	12,664	12,228	236	87	0	12,437	12,210
Webster	8,688	8,605	83	2	0	8,617	8,536
W. Baton Rouge	2,838	2,118	720	19	0	2,835	2,116
W. Carroll	6,000	3,928	2,072	53	0	3,967	3,897
W. Feliciana	1,002	1,002	0	12	0	1,002	1,002
Winn	5,750	5,010	740	0	0	5,734	5,010
TOTALS	968,147	837,172	131,975	23,867	13,236	956,674	827,213
						100%	86.5%
	100%	86.4%	13.6%	2.5%	1.4%		98.7%

3,535	32	31	1	2	2	0	
1,778	4	4	0	0	0	0	
1,986	6	4	2	0	0	0	
2,001	3	3	0	1	1	0	
1,836	25	12	13	4	4	0	
1,029	17	17	0	1	1	0	
26	5	4	1	1	1	0	
525	113	110	3	95	91	4	
4,011	1,868	1,795	73	878	363	515	
4,345	472	365	107	148	129	19	
41	0	0	0	6	6	0	
85	5	4	1	0	0	0	
220	0	0	0	0	0	0	
14	6	6	0	2	1	1	
292	14	14	0	1	1	0	
484	23	20	3	17	10	7	
9,092	513	440	53	571	444	127	
8	4	4	0	6	6	0	
50	2	2	0	0	0	0	
3,092	21	7	14	5	3	2	
344	11	6	7	5	2	3	
536	11	10	1	0	0	0	
4,279	76	76	0	2	2	0	
1,900	55	27	28	8	0	8	
364	8	7	1	5	4	1	
6,967	881	817	64	559	507	52	
1,581	34	21	13	13	11	2	
3,263	285	199	86	62	52	10	
1,931	5	5	0	0	0	0	
131	10	6	4	4	2	2	
510	32	27	5	26	23	1	
718	21	21	0	1	1	0	
0	11	11	0	15	15	0	
226	17	17	0	20	19	1	
1,389	38	19	19	51	34	17	
20,809	2,810	2,128	682	948	690	258	
258	264	253	11	35	33	0	
35	18	18	0	43	33	10	
444	9	9	0	0	0	0	do as of 5/59
2,728	119	108	11	253	234	19	
15	7	6	1	1	1	0	
101	17	8	9	5	5	0	
1,492	11	11	0	0	0	0	do as of 5/59
444	32	31	1	11	11	0	
1,741	17	17	0	6	5	1	
1,064	10	2	8	1	0	1	
2,283	27	14	13	1	1	0	
2,213	20	7	13	11	5	6	
7,898	36	23	13	10	9	1	
2,434	27	11	16	63	5	58	do as of 5/59
2,679	25	16	9	4	4	0	do as of 3/59
2,031	134	100	34	54	36	18	do as of 4/59
3,471	66	55	11	7	2	5	
0	5	5	0	0	0	0	
1,096	33	30	3	7	7	0	
353	19	8	11	27	14	13	
1,934	2	2	0	0	0	0	
624	22	13	9	1	1	0	
227	20	16	4	7	5	2	
81	56	54	2	15	15	0	do as of 3/59
719	3	2	1	0	0	0	
70	22	20	2	11	11	0	
0	0	0	0	0	0	0	
738	3	1	2	1	1	0	do as of 2/59
129,461	8,442	7,095	1,347	4,031	2,864	1,167	
13.2%	100%	84.0%	16.0%	100%	71.0%	29.0%	
		0.9%			0.4%		

90 In United States District Court

Answer of Curtis M. Thomas to request for admission

Filed Nov. 16, 1959

Now comes Curtis M. Thomas, Registrar of Voters, Parish of Washington, Franklinton, Louisiana, and in answer for request for admission served upon him on the 7th day of November, 1959, and hereby answering said admission, only for the purpose of the herein designated action and subject to any and all exception previously filed, and subject to all objections to admissibility, and without waiving any rights gives the following answers to such request.

1. Defendant admits the statement of Paragraph 1.

2. Defendant admits that Washington Parish, Louisiana, is and has been since May 31, 1958 a permanent voter registration parish.

3. Defendant admits statements 3, 4, 5, 6, 7 and 8.

4. Defendant states in answer to statement #9 that some deficiencies of the same general type as were used as the basis for challenging Negro registrants are and were at the time referred to in Request No. 6 present in the records of some white registrants who have not been challenged.

91 5. Defendant admits statements 10, 11, 12, 13 and 14.

(S) Curtis M. Thomas,
CURTIS M. THOMAS,
Registrar of Voters,
Washington Parish, State of Louisiana.

Sworn to and subscribed before me this 13 day of November, 1959.

[SEAL] (S) (Illegible)
Notary Public.

In United States District Court

Saxon Farmer, defendant, response to requests for admissions

Filed Nov. 17, 1959

Saxon Farmer, defendant, makes the following admissions and denials on the request for admissions served on defendant

by mail under date of November 6th, 1959, by the United States of America, the plaintiff:

Request No. 1

Defendant admits the matter stated therein.

Request No. 2

Defendant admits the matter stated therein.

Request No. 3.

In response to Request No. 3, defendant avers that there were many reasons for challenging the parties who were challenged, both White and Negro. That to the best of respondent's recollection, the most frequent cause was the challenged registrant's failure to compute his age correctly in days,
92 months and years, a mandatory requirement of the Constitution of Louisiana and Sections 31 and 32 of Title 18 of the Louisiana Revised Statutes, which interpretation has been definitively settled by the following cases:

Bishop vs. Sherburne, 122 La. 429; 47 So. 759.

Lorio vs. Sherburne, 122 La. 434; 47 So. 760.

State ex rel Smith vs. Dardenne, Reg. 129 La. 836, 56 So. 905.

That there were also challenges based on failure to complete cards; apparent misspellings on the card so as to make meaningless the answers given; and complete illegibility of handwriting in connection with all or a portion of the answers. That respondent cannot remember each of the reasons given, but these are among those used.

(S) W. M. Shaw,
W. M. Shaw,
Of counsel for Defendant.

Sworn to and subscribed before me on this the 18th day of November, 1959.

[SEAL]

(S) Wellborn Jack,
Notary Public, in and for
Caddo Parish, Louisiana.

In United States District Court

E. Ray McElveen, defendant, response to requests for admissions

Filed Nov. 17, 1959

E. Ray McElveen, Defendant, makes the following admissions and denials on the request for admissions served on defendant by mail under date of November 6th, 1959, by
93 the United States of America, the plaintiff:

Request No. 1

Defendant admits the matter stated therein.

Request No. 2

Defendant admits the matter stated therein.

Request No. 3

In response to Request No. 3, Defendant avers that there were many reasons for challenging the parties who were challenged, both white and Negro; that to the best of respondent's recollection, the most frequent cause was the challenged registrant's failure to compute his age correctly in days, months and years, a mandatory requirement of the Constitution of Louisiana and Sections 31 and 32 of Title 18 of the Louisiana Revised Statutes, which interpretation has been definitively settled by the following cases:

Bishop vs. Sherburne, 122 La. 429; 47 So. 759.

Lorio vs. Sherburne, 122 La. 434; 47 So. 760.

State ex rel Smith vs. Dardenne, Reg. 129 La. 836, 56 So. 905.

That there were also challenges based on failure to complete cards; apparent misspellings on the card so as to make meaningless the answers given; and complete illegibility of handwriting in connection with all or a portion of the answers; that respondent cannot remember each of the reasons given, but those are among those used.

(S) W. M. Shaw,
W. M. Shaw,
Of Counsel for Defendant.

94 Sworn to and subscribed before me on this the 16th day of November, 1959.

(S) WELLBORN JACK,
Notary Public, in and for
Caddo Parish, Louisiana.

In United States District Court

Eugene Farmer's, defendant, response to requests for admissions

(Filed Nov. 17, 1959)

Eugene Farmer, defendant, makes the following admissions and denials on the request for admissions served on defendant by mail under date of November 6th, 1959, by the United States of America, the plaintiff:

Request No. 1

Defendant admits the matter stated therein.

Request No. 2

Defendant admits the matter stated therein.

Request No. 3

In response to Request No. 3, defendant avers that there were many reasons for challenging the parties who were challenged, both White and Negro; that to the best of repsondent's recollection, the most frequent cause was the challenged registrant's failure to compute his age correctly in days, months and years, a mandatory requirement of the Constitution of Louisiana and Sections 31 and 32 of Title 18 of the Louisiana Revised Statutes which interpretation has been definitively settled by the following cases:

Bishop vs. Sherburne, 122 La. 429; 47 So. 759.

95 Lorio vs. Sherburne, 122 La. 434; 47 So. 760.

State ex rel Smith vs. Dardenne, Reg. 129 La. 836, 56 So. 905.

That there were also challenges based on failure to complete cards; apparent misspellings on the card so as to make mean-

ingless the answers given; and complete illegibility of handwriting in connection with all or a portion of the answers; that respondent cannot remember each of the reasons given, but these are among those used.

(S) W. M. Shaw,
W. M. Shaw,
Of Counsel for Defendant.

Sworn to and subscribed before me on this the 16th day of November, 1959.

(S) Wellborn Jack,
Notary Public, in and for
Caddo Parish, Louisiana.

In United States District Court

Response to requests for admissions by Diaz D. McElveen, defendant

Filed Nov. 17, 1959

Diaz D. McElveen, defendant, makes the following admissions and denials on the request for admissions served on defendant by mail under date of November 6th, 1959, by the United States of America, the plaintiff:

Request No. 1

Defendant admits the matter stated therein.

Request No. 2

Defendant admits the matter stated therein.

96 Request No. 3

In response to Request No. 3, defendant avers that there were many reasons for challenging the parties who were challenged, both White and Negro. That to the best of respondent's recollection, the most frequent cause was the challenged registrant's failure to compute his age correctly in days, months and years, a mandatory requirement of the Constitution of Louisiana and Sections 31 and 32 of Title 18 of the Louisiana

Revised Statutes which interpretation has been definitively settled by the following cases:

Bishop vs. Sherburne, 122 La. 429; 47 So. 759.

Lorio vs. Sherburne, 122 La. 434; 47 So. 760.

State ex rel. Smith vs. Dardenne, Reg. 129 La. 835; 56 So. 905.

That there were also challenges based on failure to complete cards; apparent misspellings on the card so as to make meaningless the answers given; and complete illegibility of hand writing in connection with all or a portion of the answers. That respondent cannot remember each of the reasons given, but these are among those used.

(S) W. M. Shaw,
W. M. Shaw,
Of Counsel for Defendant.

Sworn to and subscribed before me on this the 14th day of November, 1959.

(S) Ruth Jamison,
Notary Public, in and for
Claiborne Parish, Louisiana.

97 In United States District Court

Response to requests for admissions by citizens council of Washington Parish, Defendant

Filed Nov. 17, 1959

The Citizens Council of Washington Parish, defendant, makes the following admissions and denials on the request for admissions served on defendant by mail under date of November 6th, 1959, by the United States of America, the plaintiff:

Request No. 1

Defendant admits the matter stated therein.

Request No. 2

Defendant specially denies that the Citizens Council of Washington Parish is affiliated with the Association of Citizens Council of Louisiana. Defendant points out that Article 3 of defendant's charter reads as follows:

"This corporation is and shall remain independent, wholly self-governing body, and though it may cooperate with other organizations for the purpose of carrying out any of the corporate objectives, shall never surrender any of its powers or authorities to any other corporation, organization, or individual."

Request No. 3

In response to the request to admit statement No. 3, defendant especially avers that one of its purposes as set forth in Article 2, Section 4, is:

"To encourage (its members) in their efforts in the
98 protection and preservation of our American way of life; to reveal the true basic elements of Socialism and Communism so as to fortify them to reject the assault which is constantly being waged upon our institutions by the Socialistic and Communistic forces in the Country."

That in order to carry out this purpose, defendant, Citizens Council knows that it must maintain segregation of the White and Negro races in Washington Parish and in Louisiana and accordingly, that is one of its purposes, although not specifically mentioned in its charter.

With respect to the Association of Citizens Councils of Louisiana, defendant cannot assert of its own positive knowledge that that is one of its purposes, but your defendant verily believes it to be a purpose of said association and consequently admits the same for the purposes of these proceedings.

Request No. 4

That defendant, Citizens Council admits that it heartily approves of the action of defendant, McElveen, and others in removing from the rolls of Washington Parish hundreds of illegally registered voters. To this extent, defendant, Citizens Council, fully indorsed and indorses the challenging. However, defendant had been informed all along that under Louisiana Law, challenging could only be conducted by two qualified voters of the Parish, so that the challenging referred

to was an independent action by the parties involved. Defendant, nevertheless, again fully indorses this action, here and now, and deplores the action of those individuals, 99 in and out of the United States Government, who might seek to subvert the laws of Louisiana under the specious contention that they are protecting someone's "Civil Rights".

MEADORS, SHAW AND MEADORS.
By: (S) W. M. Shaw,
W. M. SHAW,
Of Counsel for Defendant.

Sworn to and subscribed before me on this the 14th day of November, 1959.

[SEAL] (S) RUTH JAMISON,
Notary Public in and for
Claiborne Parish, Louisiana.

In United States District Court

Hearing on motion for preliminary injunction by plaintiff, etc.; argument; and submission

Nov. 18, 1959

Minute entry: Wright, J.

This cause came on this day to be heard on motion for preliminary injunction by plaintiff and opposition of Attorney General of La. to said motion.

Present: M. Hepburn Many, U.S. Attorney; Weldon A. Counsins, Asst. Atty. Gen. State of La.; Henry W. Watts, Jr., Atty. for Curtis M. Thomas; Benjamin C. Toledano, Esq., W. H. Shaw, Esq., Attys. for Citizens Council of Wash. Par.

Counsels for parties offered various documents.

Argument:

The matter was submitted when the court took time to consider.

Counsel for parties to file proposed findings of fact and conclusions of law by November 25, 1959.

J. S. W.

99–A In the United States District Court for the Eastern District of Louisiana, New Orleans Division

Civil Action No. 9146

UNITED STATES OF AMERICA, PLAINTIFF

vs.

DIAZ D. McELVEEN, ET AL., DEFENDANT

STATE OF LOUISIANA,
Parish of Orleans:

Defendant Curtis M. Thomas supporting affidavit No. 1

(Filed Nov. 13, 1959)

[File endorsement omitted]

Before me, the undersigned authority, a Notary in the above Parish and State, personally came and appeared: Curtis M. Thomas who after being first duly sworn did, on his oath, declare.

That, he is defendant in the above entitled and numbered cause, and is the Registrar of Voters for Washington Parish, State of Louisiana, and has been the registrar since September, 1949.

That, as Registrar of Voters for Washington Parish he has not discriminated against anyone, including members of the colored race, in any manner whatsoever in the administration of his duties as said Registrar.

That, at all times he was acting in compliance with the laws of the State of Louisiana, with a Judgment of the United States District Court, Eastern District of Louisiana, New Orleans Division, Civil Action No. 2790, entitled "Joe Dean, et al. vs. Curtis M. Thomas, etc." rendered by said court
99–B on July 25, 1950; and a judgment of the Twenty Second Judicial District Court of Louisiana, Parish of Louisiana, Civil Docket No. 18,751 entitled "Curtis M. Thomas vs. May McElveen, et al", which judgment was issued on the 6th day of April, 1959. Defendant attaches hereto certified copies

of said judgments, and makes them a part hereof and marking them for identification, "Defendant Registrar, #1 and, Defendant Registrar #2".

Curtis M. Thomas,
CURTIS M. THOMAS,
Registrar of Voters, Washington Parish.

Sworn to and subscribed before me, Notary, this 9th day of November, 1959.

Weldon A. Cousins.
WELDON A. COUSINS.

Defendant Registrar Exhibit No. 2—Reasons for judgment by Twenty-second Judicial District Court of Louisiana, Parish of Washington in case of Curtis M. Thomas v. Ray McElveen, et al. Omitted. Printed side page 87-F ante.

99-I *Defendant's Registrar #1*

United States District Court, Eastern District of Louisiana, New Orleans Division

#2790. Civil Action

JOE DEAN, ET AL.

vs.

CURTIS M. THOMAS, ETC.

JUDGMENT

This matter came on for hearing on motion of petitioners for judgment by default, all delays for filing an answer having elapsed; and upon petitioners showing that defendant failed to make an appearance or file an answer, and considering the testimony of the witnesses, Joe Dean and Charles Otis, and the entire record; the Court being of the opinion that the petitioners are entitled to the relief sought.

It is ordered, adjudged and decreed that the policy, custom, usage and practice of defendant in denying the petitioners and other Negroes similarly situated, the right to register and to qualify as electors in Washington Parish, Louisiana, solely on account of race and color, is a denial of the equal protection of the Laws as guaranteed by the 14th Amendment to the Constitution of the United States, as well as a denial of a right

to vote as guaranteed by the 15th Amendment to the Constitution of the United States;

It is further ordered, adjudged and decreed that a permanent injunction issue herein forever restraining and enjoining the defendant from denying and refusing to register eligible Negroes as electors in Washington Parish, Louisiana, solely on account of their race and color;

It is further ordered, adjudged and decreed, that a permanent injunction issue herein, restraining and enjoining the defendant from making any distinction based upon race and color in the registration of electors in Washington Parish, Louisiana.

Defendant to pay all costs.

New Orleans, Louisiana, July 25, 1950.

(Signed) J. SKELLY WRIGHT,
Judge.

99–J In the United States District Court for the Eastern District of Louisiana, New Orleans Division

Civil Action No. 9146

UNITED STATES OF AMERICA, PLAINTIFF

vs.

DIAZ D. MCELVEEN, ET AL., DEFENDANTS

Defendant's supporting affidavit No. 1

STATE OF LOUISIANA,
Parish of Orleans:

[File endorsement omitted.]

Before me, the undersigned authority, a Notary in the above Parish and State, personally came and appeared: Saxon Farmer, and Eugene Farmer who after being first duly sworn did, on their oath, declare:

That, we are defendants in the above entitled and numbered cause; are residents of Washington Parish.

That, we are duly qualified and registered voters of the Parish of Washington in the State of Louisiana and were duly qualified and registered to vote at all times mentioned herein.

That, during the later part of 1958 and a large part of 1959,

we examined the voter registration rolls of Washington Parish for the purpose of ascertaining whether or not there were any persons thereon illegally registered to vote.

That, we, together with other individuals, some of whom are named in the captioned suit as defendants, discovered a
99–K large number of illegally registered voters, the vast majority which indicated on their registration cards that they were members of the Negro race.

That, during this time we joined with other citizens of Washington Parish to challenge the registration of a large number of parties.

That, among those whom we challenged were all, or substantially all, of the individuals named in paragraph 13 of the petition of the United States herein.

That, in each case in which either of us joined in a challenge, the registration card was carefully examined and it was determined that the person who filled out the card had made an error or errors which was patent on the face of the card.

That, in no case, did either of us or anyone else whom we joined in a challenge, to our knowledge, challenge anyone solely because he was a Negro or because of his race, color, or creed. In each case the challenge was based upon some error the individual had made in registration.

That, we had, before commencing this clean up of the rolls in Washington Parish, discussed the legal requirement of voting at length with lawyers learned in the laws of Louisiana and the United States; had read the registration laws and had studied pamphlets and briefs prepared for instruction of those wishing to clean up registration rolls.

That, we prepared for our task as thoroughly as we could and that we firmly believe that each challenge was legal, correct, and strictly in accordance with our registration laws in the State of Louisiana.

That, in a very large number of these cases, the card of challenged registrant contained many errors, but in order to reduce the work load, I based my challenge on one, or maybe two, errors in the card and did not bother to list all of the errors.

99–L That, from our examination of the voter rolls of Washington Parish, we can say without hesitation, that they were in a deplorable condition, showing that the laws of

the State of Louisiana had not been enforced with any degree of firmness.

That, in connection with our part of this voter clean up, we should like to state that we became interested in the matter of the illegal registration of voters through the work of the Joint Legislative Committee of the State of Louisiana and we had conferences with regard to the laws, with representatives of that Committee from time to time.

SAXON FARMER.
EUGENE FARMER.

Sworn to and subscribed before me on this the 6th day of November, 1959.

Henry Joseph Roberts, Jr.,
HENRY J. ROBERTS,
Notary Public,
Parish of Orleans.

99–M In the United States District Court for the Eastern District of Louisiana, New Orleans Division

Civil Action No. 9146

UNITED STATES OF AMERICA, PLAINTIFF

vs.

DIAZ D. MCELVEEN, ET AL., DEFENDANTS

Defendant's supporting affidavit No. 2

STATE OF LOUISIANA.
Parish of Orleans.

[File endorsement omitted.]

Before me, the undersigned authority, a Notary in the above Parish and State, personally came and appeared: E. Ray McElveen who after being first duly sworn did, on his oath, declare:

That, I am one of the defendants in the above entitled and numbered cause; am a resident of Washington Parish; and am thirty-six years of age.

That, I am now a duly qualified and registered voter of the Parish of Washington in the State of Louisiana and was duly qualified and registered to vote at all times mentioned herein.

That, during the later part of 1958 and a large part of 1959, I examined the voter registration rolls of Washington Parish for the purpose of ascertaining whether or not there were any persons thereon illegally registered to vote.

That, I, together with other individuals, some of whom are named in the captioned suit as defendants, discovered a large number of illegally registered voters, the vast majority of which indicated on their registration cards that they were members of the Negro race.

99-N

That, during this time I joined with other citizens of Washington Parish to challenge the registration of a large number of these parties.

That, among those whom I challenged were all, or substantially all, of the individuals named in paragraph 13 of the petition of the United States herein.

That, in each case in which I joined in a challenge, I examined the registration card and determined, to the best of my knowledge, that the person who filled out that card had made an error which was patent on the face of that card.

That, in no case did I, or anyone else with whom I joined in a challenge, to my knowledge, challenged anyone solely because he was a Negro or because of his race, color, or creed. In each case the challenge was based upon some error the individual had made in registration.

That, I had, before commencing this clean up of the rolls in Washington Parish, discussed the legal requirement of voting at length with lawyers learned in the laws of Louisiana and the United States; had read the registration laws and had studied pamphlets and briefs prepared for instruction of those wishing to clean up registration rolls.

That, I prepared for my task as thoroughly as I could and that I firmly believe that each challenge was legal, correct, and strictly in accordance with our registration laws in the State of Louisiana.

That, in a very large number of these cases, the card of challenged registrant contained many errors, but in order to reduce the work load, I based my challenge on one, or maybe two, errors in the card and did not bother to list all of the errors.

99-O

That, from my examination of the voter rolls of Washington Parish, I can say without hesitation, that they were in a deplorable condition, showing that the laws of the State of

Louisiana had not been enforced with any degree of firmness.

That, in connection with my part of this voter clean up, I should like to state that I became interested in the matter of the illegal registration of voters through the work of the Joint Legislative Committee of the State of Louisiana and I had conferences with regard to the laws, with representatives of that Committee from time to time.

E. RAY MCELVEEN.

Sworn to and subscribed before me on this the 6th day of November 1959.

Henry Joseph Roberts, Jr.
HENRY J. ROBERTS,
Notary Public,
Orleans Parish.

99–P In the United States District Court for the Eastern District of Louisiana, New Orleans Division

Civil Action No. 9146

UNITED STATES OF AMERICA, PLAINTIFF

vs.

DIAZ D. MCELVEEN, ET AL., DEFENDANTS

Defendant's supporting affidavit No. 3

STATE OF LOUISIANA,
Parish of Orleans:

[File endorsement omitted.]

Before me, the undersigned authority, a Notary in the above Parish and State, personally came and appeared: Diaz D. McElveen who after being first duly sworn did, on his oath, declare:

That, I am one of the defendants in the above entitled and numbered cause; am a resident of Washington Parish; and am sixty-eight years of age.

That, I am now a duly qualified and registered voter of the Parish of Washington in the State of Louisiana and was duly qualified and registered to vote at all times mentioned herein.

That, during the later part of 1958 and a large part of 1959, I examined the voter registration rolls of Washington Parish

for the purpose of ascertaining whether or not there were any persons thereon illegally registered to vote.

That, I, together with other individuals, some of whom are named in the captioned suit as defendants, discovered
99-Q a large number of illegally registered voters, the vast majority which indicated on their registration cards that they were members of the Negro race.

That, during this time I joined with other citizens of Washington Parish to challenge the registration of a large number of these parties.

That, among those whom I challenged were all, or substantially all, of the individuals named in paragraph 13 of the petition of the United States herein.

That, in each case in which I joined in a challenge, I examined the registration card and determined, to the best of my knowledge, that the person who filled out that card had made an error which was patent on the face of that card.

That, in no case did I, or anyone else with whom I joined in a challenge, to my knowledge, challenged anyone solely because he was a Negro or because of his race, color, or creed. In each case the challenge was based upon some error the individual had made in registration.

That, I had, before commencing this clean up of the rolls in Washington Parish, discussed the legal requirement of voting at length with lawyers learned in the laws of Louisiana and the United States; had read the registration laws and had studied pamphlets and briefs prepared for instruction of those wishing to clean up registration rolls.

That, I prepared for my task as thoroughly as I could and that I firmly believe that each challenge was legal, correct, and strictly in accordance with our registration laws in the State of Louisiana.

That, in a very large number of these cases, the card of challenged registrant contained many errors, but in order to reduce the work load, I based my challenge on one, or maybe
99-R two, errors in the card and did not bother to list all of the errors.

That, from my examination of the voter rolls of Washington Parish, I can say without hesitation, that they were in a deplorable condition, showing that the laws of the

State of Louisiana had not been enforced with any degree of firmness.

That, in connection with my part of this voter clean up, I should like to state that I became interested in the matter of the illegal registration of voters through the work of the Joint Legislative Committee of the State of Louisiana and I had conferences with regard to the laws, with representatives of that Committee from time to time.

That, at the request of my attorney, I had photo copies made of the registration card of a number of those parties listed in paragraph 13 of the complaint of the United States.

That, annexed to this affidavit are photo copies of these registration cards and copies of the form of challenge used on each.

That, these photo copies were made under my direction and in my presence and represent a true copy of the registration card and the challenge forms attached are copies of the originals used.

That, these documents may be more particularly described as follows:

1. Application for registration of Moses L. Richmond, dated 2 4 57, showing the following errors on the face of the card.

a) Error of three days in computation of age.

b) Failure to fill out place of existing registration.

Which application form marked "Exhibit A" for identification. Also annexed is the carbon copy of the challenge which has been marked "A–1" for identification.

2. Application for registration of Henry Sims, dated 5/14/58, showing the following errors on the face of the card.

a) Failed to give the months of age and contained an error of one day in the computation of days.

b) Failed to fill in the date of registration. Same was stamped with a rubber stamp.

Which application is marked "Exhibit B" for identification. Also, annexed is a carbon copyq of the challenge marked "B–1" for identification.

3. Application for registration of Albert Robert Wilson, dated 5/30/57, showing the following errors on the face of the card.

a) Contained error of one day in computation of age.

b) Failed to fill in time lived in the State.

c) Failed to fill in correctly time lived in Parish or precinct and ward.

d) Various other errors which were of a minor nature.

99-S Which application and a carbon copy of the challenge are marked Exhibit "C" and "C-1" respectively for identification.

4. Application for registration of Frank Shumake dated 5 23 57, showing the following errors on the face of the card.

a) Error in computing one month's age.

b) Error made in stating place of present registration.

Which application and a carbon copy of the challenge are marked Exhibit "D" and "D-1" respectively for identification.

5. Application for registration of Joe Dean, dated 1/2/57, showing the following errors on the face of the card.

a) Error in one day's computation of age.

b) Error in name of householder.

c) Error in County of birth.

d) No affidavit of disability accompanying or attached to registration, so form for such was used.

e) Card not filled out on question to present registration.

Which application and a carbon copy of the challenge are marked Exhibit "E" and "E-1" for identification.

6. Application for registration of Samuel Rogers, dated 6 14 58, showing the following error on the face of the card.

a) Error of one month in computing of age.

Which application and a carbon copy of the challenge are marked Exhibit "F" and "F-1" for identification.

7. Application for registration of Allie Mae Johnson, dated 6 4 57, showing the following errors on the face of the card.

a) Error of one year in computation of age.

b) Failed to state year of birth correctly.

Which application and carbon copy of the challenge are marked Exhibit "G" and "G-1" for identification.

8. Application for registration of Lionel M. Verdun, dated 6 4 57, showing the following error on the face of the card.

a) Error of 11 days in computation of age.

Which application and carbon copy of the challenge are marked Exhibit "H" and "H-1" for identification.

9. Application for registration of Ethel A. Smith, dated 6 4 57, showing the following errors on the face of the card.

99–T a) Error of one month and one day in computation of age.

Which application and carbon copy of the challenge are marked Exhibit "I" and "I–1" for identification.

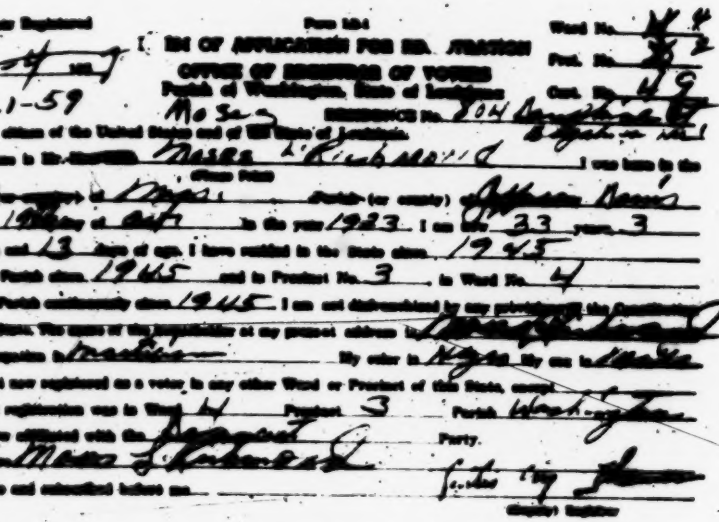
D. D. McElveen.

Sworn to and subscribed before me on this the 6th day of November, 1959.

Henry Joseph Roberts, Jr.,
Henry J. Roberts,
Notary Public,
Orleans Parish.

99–U

EXHIBIT A



Date Registered — Form 104 — Ward No. 4
204 — APPLICATION FOR REGISTRATION — Pct. No. 2
OFFICE OF REGISTRAR OF VOTERS
Parish of Washington, State of Louisiana — Con. No. 49
9-1-59 — RESIDENCE No. 804 Bogalusa
I am a citizen of the United States and of this State of Louisiana.
My name is Mr. Mrs. Miss (Given Name) Moses L'Richmond I was born in the
State (or country) of Miss. Parish (or county) of Jefferson Davis
on the 19th day of Oct. in the year 1923. I am 33 years, 3
months and 13 days of age. I have resided in this State since 1945
in this Parish since 1945 and in Precinct No. 3 in Ward No. 4
of this Parish uninterruptedly since 1945. I am not disfranchised by any provision of the Constitution
of this State. The name of the last place of my present address in
My occupation is Mechanic My color is Negro My age is 36
I am not now registered as a voter in any other Ward or Precinct of this State, except
My last registration was in Ward 4 Precinct 3 Parish Washington
I am now affiliated with the Democratic Party.
Moses L'Richmond
Sworn to and subscribed before me
Deputy Registrar

99–V

EXHIBIT A–1

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF

PERSONALLY CAME AND APPEARED BEFORE ME
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF
STATE OF LOUISIANA
AND
WHO BEING DULY SWORN, DO DEPOSE AND SAY
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT
REGISTERED FROM
(Municipal number and street, if any)
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO WARD
PRECINCT , OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:

AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD
PRECINCT THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED
SWORN TO AND SUBSCRIBED BEFORE ME, ON THIS DAY OF

(Deputy) Registrar of Voters

99–W

EXHIBIT B

Date Registered MAY 1 4 1958 19__

Form 58-1

FORM OF APPLICATION FOR REGISTRATION

OFFICE OF REGISTRAR OF VOTERS
Parish of Washington, State of Louisiana

Ward No. __
Pret. No. __
Cert. No. __
RESIDENCE No. __

I am a citizen of the United States and of the State of Louisiana.

My name is Mr.-Mrs.-Miss HENR (Given Name) I was born in the State (or country) of [illegible] Parish (or county) of __ on the 4 day of __ in the year __. I am now __ years, months and 9 days of age. I have resided in the State since __ in this Parish since 19__ and in Precinct No. __, in Ward No. 4 of this Parish continuously since __. I am not disfranchised by any provisions of the Constitution of this State. The name of the householder at my present address is __

My occupation is Porter My color is __ My sex is __

I am not now registered as a voter in any other Ward or Precinct of this State, except ~~__~~

My last registration was in Ward 4 Precinct 2 Parish [illegible]

I am now affiliated with the [illegible] Party.

Signature Henry Sims

Sworn to and subscribed before me Curtis M Thomas (Deputy) Registrar

99–X

EXHIBIT B–1

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Washington

PERSONALLY CAME AND APPEARED BEFORE ME

(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington

STATE OF LOUISIANA,

E. M. Thomas AND Eugene Franklin

WHO BEING DULY SWORN, DO DEPOSE AND SAY:

THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT Henry Lingo

REGISTERED FROM 643 2nd Street
(Municipal number and street, if any)

TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO — WARD 4

PRECINCT ..... , OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:

Name not spelled correctly on Application
Age not completed correctly on Application

AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4

PRECINCT 2 THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.

SWORN TO AND SUBSCRIBED

BEFORE ME, ON THIS 1st

DAY OF July, 1941 E. M. Thomas

(Deputy) Registrar of Voters

99–Y

EXHIBIT C

Date Registered 5-20 1921

Form LR-1

POard OF APPLICATION FOR REGISTRATION

OFFICE OF REGISTRAR OF VOTERS
Parish of Washington, State of Louisiana

Ward No. 3
Prct. No. 2
Cont. No. 352

RESIDENCE No. 624 17th Ave

I am a citizen of the United States and of the State of Louisiana.

My name is Mr./Mrs./Miss Curtis Robert Wilson (Please Print) I was born in the State (or country) of La Parish (or county) of Washington on the 29 day of Aug in the year 1896. I am now 48 years 9 months and 2 days of age. I have resided in the State since

in this Parish since Oct 1919 and in Precinct No. 2, in Ward No. 3 of this Parish continuously since Oct 1919. I am not disfranchised by any provisions of the Constitution of this State. The name of the householder at my present address is Curtis Robert Wilson

My occupation is Farmer. My color is Negro. My sex is M

I am not now registered as a voter in any other Ward or Precinct of this State, except

My last registration was in Ward 3 Precinct 2 Parish Washington

I am now affiliated with the Democrat Party.

Signature Curtis Robert Wilson

Sworn to and subscribed before me

(Deputy) Registrar

99-Z

EXHIBIT C-1

AFFIDAVIT IN CASE REGISTRATION
OF VOTER IS CHALLENGED

STATE OF LOUISIANA
PARISH OF Washington

Personally came and appeared before me,

(Deputy) Registrar of Voters in and for the Parish of Washington State of Louisiana,

E R McElveen and D M McElveen

who being duly sworn, do depose and say:

That they are bona fide registered voters of this parish; that after reasonable investigation by them, and each of them, and on information and belief, that

Albert Robert Nelson

Registered from 928-17th Ave Franklinton
(Municipal number and street, if any)

To whom was issued registration certificate No. _____ Ward 3

Precinct 2, of this Parish, is illegally registered or has lost his or her right to vote in the precinct, ward or parish in which they are registered, for the following reasons:

Errors in Calculating Age

And should be erased from the Official Precinct Register of Ward 3 Precinct 2

that this affidavit is made for the purpose of causing said name to be erased.

E R McElveen

D M McElveen

Sworn to and subscribed before me, on this _____ day of June, 1971

(Deputy) Registrar of Voters

99–AA

EXHIBIT D

Date Registered 5/23 1967

Form LR-1

FOR OF APPLICATION FOR REGIS. ATION

OFFICE OF REGISTRAR OF VOTERS

Parish of Washington, State of Louisiana

Ward No. 4

Prct. No. 2

Cert. No. 152

RESIDENCE No. 818 East North St

I am a citizen of the United States and of the State of Louisiana.

My name is Mr. Mrs. Miss Frank C Strawbridge (Please Print) I was born in the State (or country) of Ala. Parish (or county) of Washington City on the 24 day of Sept in the year 1887. I am now 69 years, months and 29 days of age. I have resided in the State since 1920 in this Parish since 1920 and in Precinct No. 4, in Ward No. 2 of this Parish continuously since 1920. I am not disfranchised by any provisions of the Constitution of this State. The name of the householder at my present address is F. C. Strawbridge My occupation is Mail Carrier My color is W My sex is M

I am not now registered as a voter in any other Ward or Precinct of this State, except

My last registration was in Ward 4 Precinct 2 Parish Wash.

I am now affiliated with the Democrat Party.

Signature Frank C Strawbridge

Sworn to and subscribed before me James T Thomas (Deputy) Registrar

90-BB EXHIBIT D-1

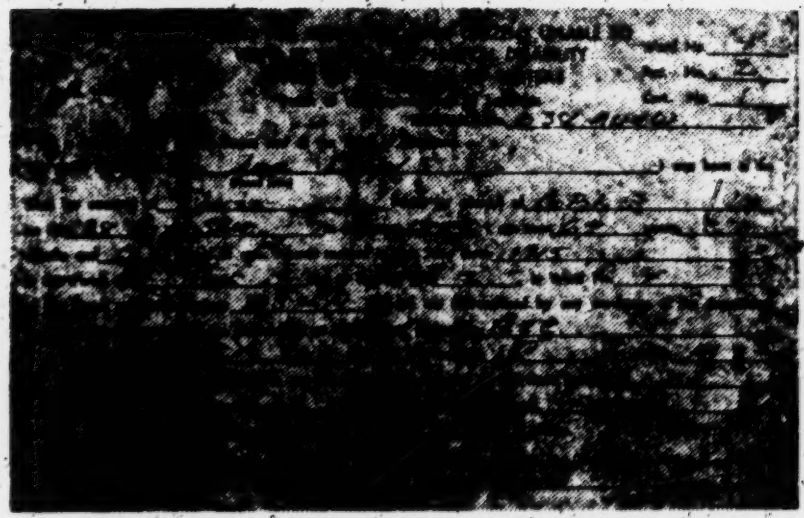
AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Wash't.

PERSONALLY CAME AND APPEARED BEFORE ME .....
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington
STATE OF LOUISIANA.
E. P. Lewis AND Eugene Farris
WHO BEING DULY SWORN, DO DEPOSE AND SAY:
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT Frank C. Thomas
REGISTERED FROM 9 East 9th St
(Municipal number and street, if any)
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO. ..... WARD 4
PRECINCT 2, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:
Incorrect computation of age on ...last letter.
.....
AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4
PRECINCT, 2 THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.
SWORN TO AND SUBSCRIBED Eugene Farris
BEFORE ME, ON THIS 1st
DAY OF May, 1909 E. P. Lewis

(Deputy) Registrar of Voters

99-CC EXHIBIT E



99–DD EXHIBIT E–1

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Washington

PERSONALLY CAME AND APPEARED BEFORE ME .....
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington
STATE OF LOUISIANA
E. R. McElveen AND Eugene Farmer
WHO BEING DULY SWORN, DO DEPOSE AND SAY
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT Joe Jones
REGISTERED FROM 638 Ave. W.
(Municipal number and street, if any)
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO. ..... WARD 4
PRECINCT 2, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:
Misspelling on application
Age not Confirmed Correctly on Application
AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4
PRECINCT 2 THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.
SWORN TO AND SUBSCRIBED E. R. McElveen
BEFORE ME, ON THIS 11th
DAY OF May, 19 59 Eugene Farmer

(Deputy) Registrar of Voters

99-EE EXHIBIT F

Date Registered 6-14-1916

Form LR-1

FORM OF APPLICATION FOR REGISTRATION

OFFICE OF REGISTRAR OF VOTERS

Parish of Washington, State of Louisiana

Ward No. 3

Prct. No. 1

Cert. No.

RESIDENCE No. R.F.D. 1 Box 1[illegible]

I am a citizen of the United States and of the State of Louisiana.

My name is Mr. Mrs. Miss Samuel Rogers (Please Print) I was born in the State (or country) of Louisiana Parish (or county) of Washington on the 14 day of March in the year 1916. I am now 24 years, 3 months and 24 days of age. I have resided in the State since 1916 in this Parish since 1916 and in Precinct No. 1, in Ward No. 6 of this Parish continuously since 1916. I am not disfranchised by any provisions of the Constitution of this State. The name of the householder of my present address is [illegible] Rogers

My occupation is Picker My color is Negro My sex is M.

I am not now registered as a voter in any other Ward or Precinct of this State, except [illegible]

My last registration was in Ward 6 Precinct 1 Parish Washington

I am now affiliated with the Democratic Party.

Signature Samuel Rogers

Sworn to and subscribed before me Curtis M. Thomas

(Deputy) Registrar

99–FF

EXHIBIT F–1

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA
PARISH OF Washington

Personally came and appeared before me _____

(Deputy) Registrar of Voters in and for the Parish of Washington
State of Louisiana, E. W. McElveen and D. D. McElveen

who being duly sworn, do depose and say

That they are bona fide registered voters of this parish; that after reasonable investigation by them, and each of them, and on information and belief, that Samuel Rogers

Registered from 114 Park 128 # Varnado Ln
(Municipal number and street, if any)

To whom was issued registration certificate No. _____ Ward 5

Precinct 1, of this Parish, is illegally registered or has lost his or her right to vote in the precinct, ward or parish in which they are registered, for the following reasons: Owns Cemetery Esq

And should be erased from the Official Precinct Register of Ward 5 Precinct 1

that this affidavit is made for the purpose of causing said name to be erased.

E. W. McElveen

D. D. McElveen

Sworn to and subscribed before me, on this 7th day of May, 19 54

(Deputy) Registrar of Voters

99–GG EXHIBIT G

Form LR-1

Date Registered 6/4 1952

FORM OF APPLICATION FOR REGISTRATION
OFFICE OF REGISTRAR OF VOTERS
Parish of Washington, State of Louisiana

Ward No. 4
Prct. No. 2
Cert. No. 14

RESIDENCE No. 608 1st Ave.

I am a citizen of the United States and of the State of Louisiana.
My name is Mr. Mrs. Miss Allie Mae Thomas (Please Print) I was born in the State (or country) of Mississippi Parish (or county) of Washington on the 31 day of Oct. in the year 23. I am now 34 yrs. 7 months and 4 days of age. I have resided in the State since 1923 in this Parish since 1923 and in Precinct No. 2 in Ward No. 4 of this Parish continuously since 1923. I am not disfranchised by any provisions of the Constitution of this State. The name of the householder at my present address is C. C. Johnson
My occupation is Housewife My color is Negro My sex is Female
I am not now registered as a voter in any other Ward or Precinct of this State, except
My last registration was in Ward 4 Precinct 2 Parish Washington
I am now affiliated with the Democratic Party.

Signature Allie Mae Thomas

Sworn to and subscribed before me

Curtis M. Thomas
(Deputy) Registrar

99-HH

EXHIBIT G-1

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

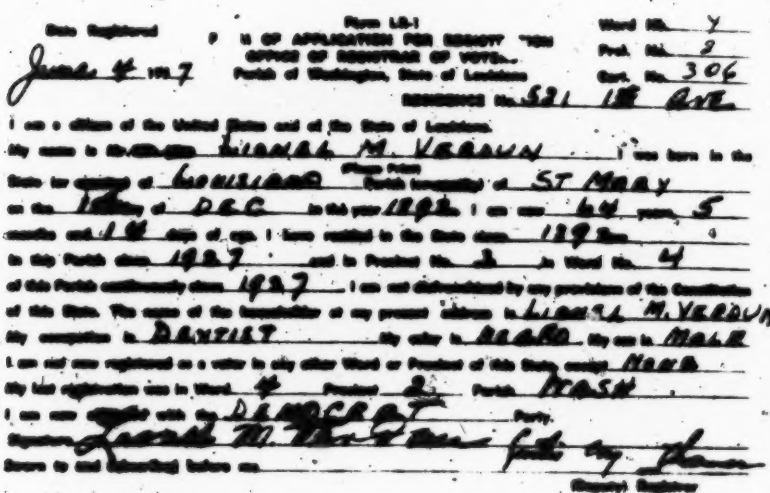
STATE OF LOUISIANA—PARISH OF [illegible]

PERSONALLY CAME AND APPEARED BEFORE ME.....
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF [illegible]
STATE OF LOUISIANA.
[illegible] AND [illegible]
WHO BEING DULY SWORN, DO DEPOSE AND SAY:
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT [illegible]
REGISTERED FROM [illegible]
(Municipal number and street, if any).
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO..... WARD 4
PRECINCT 2, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:
[illegible] registration card
[illegible]

AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4
PRECINCT, 2 THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.
SWORN TO AND SUBSCRIBED [illegible]
BEFORE ME, ON THIS 2
DAY OF [illegible], 1917 [illegible]

(Deputy) Registrar of Voters

99–II EXHIBIT H



99-JJ

EXHIBIT H-1

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Washington

PERSONALLY CAME AND APPEARE BEFORE ME .....

(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington

STATE OF LOUISIANA

E. P. McElveen AND Eugene Jones

WHO BEING DULY SWORN, DO DEPOSE AND SAY:

THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT Fiona M. Jackson

REGISTERED FROM 521 Pine Ave.

(Municipal number and street, if any)

TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO. ..... WARD 4

PRECINCT 2, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:

Age not Computed Correctly on application

AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4

PRECINCT, 2 THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.

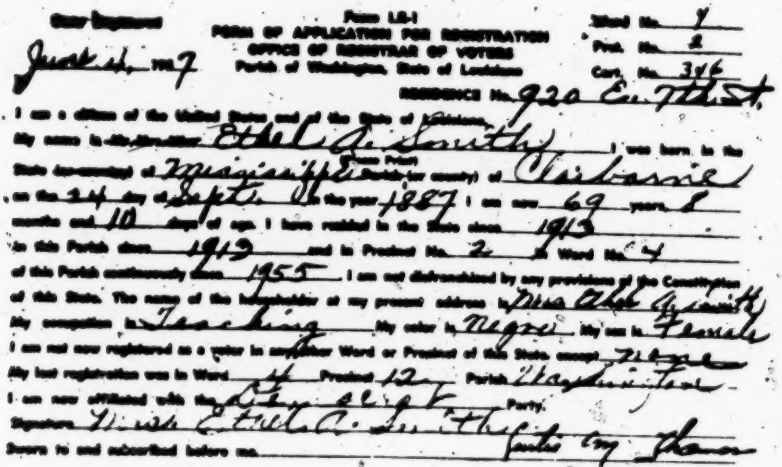
SWORN TO AND SUBSCRIBED E. P. McElveen

BEFORE ME ON THIS 7th

DAY OF Nov. 19 31 Registration

(Deputy) Registrar of Voters

99–KK EXHIBIT I



Form L.S.-1
FORM OF APPLICATION FOR REGISTRATION
OFFICE OF REGISTRAR OF VOTERS
Parish of Washington, State of Louisiana

Ward No. 4
Pct. No. 2
Cert. No. 346
RESIDENCE No. 920 E. 7th St.

June 11, 1947

I am a citizen of the United States and of the State of Louisiana,
My name is (in full) Ethel A. Smith (Name Print) I was born in the
State (or country) of Mississippi (Parish or county) of Tishomingo
on the 24 day of Sept. in the year 1887 I am now 69 years 8
months and 10 days of age. I have resided in the State since 1913
in this Parish since 1913 and in Precinct No. 2 in Ward No. 4
of this Parish continuously since 1955 I am not disfranchised by any provisions of the Constitution
of this State. The name of the householder at my present address is Miss Ethel A. Smith
My occupation is Teaching My color is Negro My sex is Female
I am not now registered as a voter in another Ward or Precinct of this State except Negro
My last registration was in Ward 4 Precinct 12 Parish Washington
I am now affiliated with the Citizens Party.
Signature Miss Ethel A. Smith
Sworn to and subscribed before me, Curtis Coy Thomas
(Deputy) Registrar

90-LL

EXHIBIT I-1

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Washington

PERSONALLY CAME AND APPEARED BEFORE ME .....
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington
STATE OF LOUISIANA)
Curtis M. Thomas AND Eugene Jones
WHO BEING DULY SWORN, DO DEPOSE AND SAY:
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT Ethel A. Smith
REGISTERED FROM 920 E 7th St.
(Municipal number and street, if any)
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO. ..... WARD 4
PRECINCT 2, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:
Age not Correct on Registration Application

AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4
PRECINCT, 2 THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.
SWORN TO AND SUBSCRIBED Curtis M. Thomas
BEFORE ME, ON THIS 1st
DAY OF Dec., 19 47 Eugene Jones

(Deputy) Registrar of Voters

99–MM In the United States District Court for the Eastern District of Louisiana, New Orleans Division

Civil Action No. 9146

UNITED STATES OF AMERICA, PLAINTIFF

vs.

DIAZ D. MCELVEEN, ET AL., DEFENDANTS

Defendants supporting affidavit No. 4

STATE OF LOUISIANA,
Parish of Washington:

[File endorsement omitted.]

Before me, the undersigned authority, a Notary in the above Parish and State, personally came and appeared: Diaz D. McElveen who after being first duly sworn did, on his oath, declare;

That at the request of my attorney i had Photo copies made of a number of the applications cards involved, and Wish to identify them with this affidavit.

That these applications cards were taken as filed and not selected.

1. Hattie Graves
   Bogalusa, La.
   Challenged misspelling.
2. Curtis Sampson,
   Bogalusa, La.
   Challenged misspelling.
3. Bessie Butler
   Bogalusa, La.
   Challenged misspelling.
4. Robert E. Young
   Bogalusa, La.
   Challenged not properly filled in
5. Susie Ganiway
   Bogalusa, La.
   age not properly calculated, challenged.
6. Percy Gatlin
   Bogalusa, La.
   Challenged misspelling.

7. Hildred Sanders
   Bogalusa, La.
   Incorrect age on application
8. Mary L. Speight
   Bogalusa, La.
   Incorrect age., challenged
9. Elsie Ashley
   Bogalusa, La.
   Incorrect age, challenged
10. James Davis
    Bogalusa, La.
    Mispelling and violated printed instructions on application, challenged.

Sworn to and subscribed before me, Charles A. McCain, Deputy Clerk of Court and Ex-Officio Notary Public, this the 7th day of November, 1959.

Diaz D. McElveen.
DIAZ D. MCELVEEN.
[SEAL] CHARLES A. MCCAIN,
Notary Public.

Date Registered
3 20 1928

Form LR-1
FORM OF APPLICATION FOR REGISTRATION
OFFICE OF REGISTRAR OF VOTERS
Parish of Washington, State of Louisiana

Ward No. 4
Pct. No. 8
Cert. No.
RESIDENCE No. Bogalusa Le pa 17 104

I am a citizen of the United States and of the State of Louisiana.
My name is Mr.-Mrs.-Miss Katie Graves (Please Print) I was born in the
State (or country) of La. Parish (or county) of Tangipahoa
on the 19 day of Dec in the year 1894 I am now 60 years, 2
months and 10 days of age. I have resided in the State since 1941
in this Parish since 1902 and in Precinct No. 8 in Ward No. 4
of this Parish continuously since 1902 I am not disfranchised by any provisions of the Constitution
of this State. The name of the householder at my present address is Dock Graves.
My occupation is House Wife My color is Colored My sex is female
I am not now registered as a voter in any other Ward or Precinct of this State, except
My last registration was in Ward 4 Precinct 8 Parish Washington
I am now affiliated with the Democ Party.
Signature Mrs Katie Graves
Sworn to and subscribed before me Curtis M Thomas (Deputy) Registrar

Date Registered
6-3 1937

Form LR-1
FORM OF APPLICATION FOR REGISTRATION
OFFICE OF REGISTRAR OF VOTERS
Parish of Washington, State of Louisiana

Ward No. 4
Pct. No. 2
Cert. No. 460
RESIDENCE No. 728 4th St

I am a citizen of the United States and of the State of Louisiana.
My name is Mr.-Mrs.-Miss Curtis M Jamerson (Please Print) I was born in the
State (or country) of Mississippi (Parish (or county) of Perry
on the 8 day of 1902 in the year 1902 I am now 35 years, 9
months and 19 days of age. I have resided in the State since 1917
in this Parish since 1917 and in Precinct No. 4 in Ward No. 4
of this Parish continuously since 1917 I am not disfranchised by any provisions of the Constitution
of this State. The name of the householder at my present address is Dock Jamerson
My occupation is Hauel Wrisl My color is Black My sex is Male
I am not now registered as a voter in any other Ward or Precinct of this State, except
My last registration was in Ward 4 Precinct 4 Parish Washington
I am now affiliated with the Democ Party. Dem Club
Signature Curtis M Jamerson Curtis M Jamerson
Sworn to and subscribed before me Curtis M Thomas (Deputy) Registrar

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Washington

PERSONALLY CAME AND APPEARED BEFORE ME Curtis M. Thomas
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington
STATE OF LOUISIANA.
E. A. McElveen AND Eugene Farmer
WHO BEING DULY SWORN, DO DEPOSE AND SAY:
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT Curtis Simpson
REGISTERED FROM 728 4th St.
(Municipal number and street, if any)
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO. WARD 4
PRECINCT 2, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:
Misspelled on application

AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4
PRECINCT, 2 THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.
SWORN TO AND SUBSCRIBED E. A. McElveen
BEFORE ME, ON THIS 3
DAY OF April, 1939 Eugene Farmer

(Deputy) Registrar of Voters.

Date Registered

Form 1A-1

Ward No. 4

Pct. No. 8

Dec 2e 1941

FORM OF APPLICATION FOR REGISTRATION

OFFICE OF REGISTRAR OF VOTERS
Parish of Washington, State of Louisiana

Cert. No.

RESIDENCE No. Bogalusa La. Rt 3

I am a citizen of the United States and of the State of Louisiana.

My name is Mr. Mrs. Miss Bessie Lee Butler (Please Print) I was born in the

State (or country) of Louisiana Parish (or county) of Tangipahoa.

on the 1 day of Oct in the year 1897 I am now 64 years, 1

months and 19 days of age. I have resided in the State since 1953

in this Parish since 1963 and in Precinct No. 8 in Ward No. 4

of this Parish continuously since 1953 I am not disfranchised by any provisions of the Constitution

of this State. The name of the householder at my present address is Estes Butler

My occupation is Farming My color is Colored My sex is Female

I am not now registered as a voter in any other Ward or Precinct of this State, except

My last registration was in Ward 4 Precinct 8 Parish Washington

I am now affiliated with the Dem. Party.

Signature Bessie Butler

Sworn to and subscribed before me Curtis Coy Thomas
Deputy Registrar

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Washington

PERSONALLY CAME AND APPEARED BEFORE ME Franklin K. Thomas
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington
STATE OF LOUISIANA.
E. R. McElveen AND Eugene Farmer
WHO BEING DULY SWORN, DO DEPOSE AND SAY:
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT
REGISTERED FROM Bessie Dutton
(Municipal number and street, if any) R. 1, Bogalusa, La.
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO. WARD 4
PRECINCT 8, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED FOR THE FOLLOWING REASONS:
Misspelling on application

AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4
PRECINCT, 8. THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.
SWORN TO AND SUBSCRIBED BEFORE ME, ON THIS 12 DAY OF May, 1959

Eugene Farmer
E. R. McElveen

Franklin K. Thomas
(Deputy) Registrar of Voters

Ward Registered [illegible] Precinct [illegible] Ward No. 8

6/29/ 1932 FORM OF APPLICATION FOR REGISTRATION Pct. No. 9

OFFICE OF REGISTRAR OF VOTERS Cert. No. 1913

Parish of Washington, State of Louisiana

RESIDENCE No. Route 3 Box 387

Both a citizen of the United States and of the State of Louisiana.

My name is Mr. (Surname) ROBERT E. YOUNG (Given Name) I was born in the

State (or country) of LOUISIANA Parish (or county) of BOGALUSA

on the 23 day of OCT. in the year 1933 I am now 23 years, 7

months and 1 days of age. I have resided in the State since 1933

in this Parish since 1933 and in Precinct No. 9 in Ward No. 4

of this Parish continuously since 1933 I am not disfranchised by any provisions of the Constitution

of this State. The name of the householder at my present address is ROBERT E. YOUNG

My occupation is LABORER Color is BROWN My race is MALE

I am not now registered as a voter in any other Ward or Precinct of this State, except

My last registration was in Ward Precinct Parish

I am now affiliated with the DEMOCRATIC Party.

Signature Robert E. Young

Sworn to and subscribed before me Curtis Coy Thomas

(Deputy) Registrar

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Washington

PERSONALLY CAME AND APPEARED BEFORE ME Frankie K. Thomas
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington
STATE OF LOUISIANA
E M Mc Lee AND Eugene Farmer
WHO BEING DULY SWORN, DO DEPOSE AND SAY:
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT Mabel Jones of
REGISTERED FROM 124 Bird St
(Municipal number and street, if any)
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO ..... WARD 4
PRECINCT 9, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:
Application not properly filled in

AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4
PRECINCT, 9 THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.
SWORN TO AND SUBSCRIBED E M Mc Lee
BEFORE ME, ON THIS 17th
DAY OF May, 1939 Eugene Farmer

Frankie K. Thomas
(Deputy) Registrar of Voters

Form 1564

Date Registered ____ PETITION AND APPLICATION FOR REGISTRATION ____ Ward No. 4
OFFICE OF REGISTRAR OF VOTERS Pct. No. ____
Dec. 4 1917 Parish of Washington, State of Louisiana Cert. No. 324
REGISTERED No. of Ward 4 S. 355

I am a citizen of the United States and of the State of Louisiana.
My name is Mr. Sheil Harrison (Please Print) I was born in the
State (or country) of Mississippi Parish (or county) of Copiah
on the 30 day of ____ in the year 18 96 I am now 20 years
5.6 months and 5.6 days of age. I have resided in the State since 1916
in this Parish since 1916 and in Precinct No. 2 in Ward No. 4
of this Parish continuously from 1916 I am not disqualified by any provision of the Constitution
of this State. The name of the husband of my present sister-in-law is ____
My occupation is Logging Laborer My color is Colored My sex is Female
I am not now registered as a voter in any other Ward or Precinct of this State except (Until now never)
My last registration was in Ward 4 Precinct 2 Parish Washington
I am now affiliated with the Democratic Party.
Signature Sheil Harrison
Sworn to and subscribed before me Curtis M. Thomas
Deputy Registrar

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Washington

PERSONALLY CAME AND APPEARED BEFORE ME Frank K. Thomas
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington
STATE OF LOUISIANA
E. P. McCleon AND Eugene Farmer
WHO BEING DULY SWORN, DO DEPOSE AND SAY
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT Susie Spinney
REGISTERED FROM 835 East 9th St.
(Municipal number and street, if any)
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO. ..... WARD 4
PRECINCT 2, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:
Age not computed correctly on application
4
AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4
PRECINCT, 2 THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.
SWORN TO AND SUBSCRIBED E. P. McCleon
BEFORE ME, ON THIS 7th
DAY OF April, 19.. Eugene Farmer
Frank K. Thomas
(Deputy) Registrar of Voters

State Registered — Form 104 — Ward No. 4

FORM OF APPLICATION FOR REGISTRATION — Prct. No. 2

OFFICE OF REGISTRAR OF VOTERS
Parish of Washington, State of Louisiana — Cert. No.

RESIDENCE No. 226 2nd ave.

I am a citizen of the United States and of the State of Louisiana.

My name is Mr. Mrs. Miss Grace Gallo (Christian Name) (Surname)

State (or country) [redacted] Parish (or county) Washington

on the 29 day of July in the year 95. I am now 32 years, 11 months and 29 days of age. I have resided in the State since 1897

in this Parish since 1925 and in Precinct No. 2, in Ward No. 4

of this Parish continuously since 1925. I am not disfranchised by any provisions of the Constitution of this State. The name of the householder at my present address is Henry Mullo

My occupation is Laborer My color is white My sex is female

I am not now registered as a voter in any other Ward or Precinct of this State, except [illegible]

My last registration was in Ward [illegible] Precinct [illegible] Parish [illegible]

I am now affiliated with the Democratic Party.

Signature Grace Gallo

Sworn to and subscribed before me, this [illegible] day of [illegible] 1932

[illegible] (Deputy) Registrar

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Washington

PERSONALLY CAME AND APPEARED BEFORE ME Frank T Thomas
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington
STATE OF LOUISIANA
E. R. Thomas AND Eugene Farmer
WHO BEING DULY SWORN, DO DEPOSE AND SAY
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT Curtis Gates
REGISTERED FROM 2216 2nd Avenue
(Municipal number and street, if any)
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO WARD 4
PRECINCT , OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS
Not signing an application

AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4
PRECINCT, , THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.
SWORN TO AND SUBSCRIBED Eugene Farmer
BEFORE ME, ON THIS 22
DAY OF April, 1954 E. R. Thomas
Frank T Thomas
(Deputy) Registrar of Voters

Date Registered May 3 1948

Form 1A-1

FORM OF APPLICATION FOR REGISTRATION

OFFICE OF REGISTRAR OF VOTERS
Parish of Washington, State of Louisiana

Ward No. 4
Pct. No. 2
Cert. No.

RESIDENCE No. 1739 Charleston St

I am a citizen of the United States and of the State of Louisiana.
My name is Mr. Mrs. Miss Hildred E.C Sanders (Please Print) I was born in the
State (or country) of Louisiana Parish (or county) of Washington
on the 22 day of Nov in the year 1925 I am now 23 years, 5
months and 11 days of age. I have resided in the State since Always
in this Parish since Always and in Precinct No. 2 in Ward No. 4
of this Parish continuously since Always I am not disfranchised by any provisions of the Constitution
of this State. The name of the householder at my present address is Earl Sanders
My occupation is Teaching My color is Negro My sex is Female
I am not now registered as a voter in any other Ward or Precinct of this State, except None.
My last registration was in Ward Precinct Parish
I am now affiliated with the Democrat Party.
Signature Hildred E.C Sanders
Sworn to and subscribed before me
(Deputy) Registrar

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Washington

PERSONALLY CAME AND APPEARED BEFORE ME Curtis M. Thomas
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington
STATE OF LOUISIANA
E. R. Jr. & Elaine AND Eugene Farmer
WHO BEING DULY SWORN, DO DEPOSE AND SAY:
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT Mildred E. C. Sanders,
REGISTERED FROM 1119 Charleroi St
(Municipal number and street, if any)
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO. WARD 7
PRECINCT 2, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:
Incorrect computation of age on application

AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 7 PRECINCT, 2 THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.
SWORN TO AND SUBSCRIBED E. R. Jr. & Elaine
BEFORE ME ON THIS 1st
DAY OF June, 1959 Eugene Farmer
Curtis M. Thomas
(Deputy) Registrar of Voters

Page (No.)

State Registered — Issued No. 46

Form No. 2

Book No. 392

Serial No. 139825

June 4, 1947

Parish of Washington, State of Louisiana

APPLICATION FOR REGISTRATION
OFFICE OF REGISTRAR OF VOTERS

I am a citizen of the United States and of the State of Louisiana.

My name is (in full) Mary L. Speight (Please Print) I was born in the State (or country) of Louisiana Parish (or county) of Washington

on the 25 day of February in the year 1902. I am now 55 years, 9 months and 9 days of age. I have resided in the State since Birth

in this Parish since 1942 and in Precinct No. 2 in Ward No. 4

of this Parish continuously since 1942. I am not disfranchised by any provision of the Constitution of this State. The name of the householder at my present address is Mary L Speight

My occupation is Teacher My color is Negro My sex is Female

I am not now registered as a voter in any other Ward or Precinct of this State, except Ward 4 Prec 2

My last registration was in Ward 4 Precinct 2 Parish Washington

I am now affiliated with the Democratic Party.

Signature Mary L Speight

Sworn to and subscribed before me, this 4 day of June 1947

Curtis M Thomas
(Deputy) Registrar

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Washington

PERSONALLY CAME AND APPEARED BEFORE ME Curtis M. Thomas
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington
STATE OF LOUISIANA
E. R. McElveen AND Eugene Farmer
WHO BEING DULY SWORN, DO DEPOSE AND SAY:
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT Mary L. Speight
REGISTERED FROM 234 East 5th St
(Municipal number and street, if any)
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO. ..... WARD 4
PRECINCT 2, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:
Incorrect computation of age on application

AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4 PRECINCT, 2 THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.
SWORN TO AND SUBSCRIBED BEFORE ME, ON THIS 1st DAY OF May, 1957

Eugene Farmer
E. R. McElveen

Curtis M. Thomas
(Deputy) Registrar of Voters

540111—60—10

Date Registered 6-4 1937

Form LR-1
FORM OF APPLICATION FOR REGISTRATION
OFFICE OF REGISTRAR OF VOTERS
Parish of Washington, State of Louisiana

Ward No. 4
Prct. No. 2
Cert. No. 818
RESIDENCE No. 539 FLORENCE AVE

I am a citizen of the United States and of the State of Louisiana.
My name is Mr. Mrs. Miss MRS EDZIE ARMEN (Please Print) I was born in the State (or country) of MISSISSIPPI Parish (or county) of PIKE COUNTY on the 22 day of JUNE in the year 1918 I am now 19 years, months and 13 days of age. I have resided in the State since I Was Born in this Parish since 1936 and in Precinct No. ____ in Ward No. 4 of this Parish continuously since 193 ____. I am not disfranchised by any provisions of the Constitution of this State. The name of the householder at my present address is REDZIE ARMEN My occupation is RETAILER CLERK My color is NEGRO My sex is FEMALE I am not now registered as a voter in any other Ward or Precinct of this State, except None My last registration was in Ward 4 Precinct ____ Parish WASH I am now affiliating with the DEMOCRATIC Party.
Signature Edzie Armen
Sworn to and subscribed before me this ____ day of ____ 1937
(Deputy) Registrar

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Washington

PERSONALLY CAME AND APPEARED BEFORE ME Frankie K. Thomas
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington
STATE OF LOUISIANA.
E. P. Mc Elveen AND Eugene Farmer
WHO BEING DULY SWORN, DO DEPOSE AND SAY:
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT Elvie Ashley
REGISTERED FROM 339 Florence Ave
(Municipal number and street, if any)
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO. WARD 4
PRECINCT 2, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:
Age not Computed Correctly on application

AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4 PRECINCT, 2 THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.
SWORN TO AND SUBSCRIBED E. P. Mc Elveen
BEFORE ME, ON THIS 13
DAY OF April 1959 Eugene Farmer
Frankie K. Thomas
(Deputy) Registrar of Voters

Date Registered 2/3 1937

Form 1024

FORM OF APPLICATION FOR REGISTRATION

OFFICE OF REGISTRAR OF VOTERS
Parish of Washington, State of Louisiana

Ward No. 4
Prct. No. 2
Cert. No. 36
RESIDENCE No. 712 Livonia St

I am a citizen of the United States and of the State of Louisiana.
My name is Mr.-Mrs.-Miss J Curtis M Thomas (Please Print) I was born in the
State (or country) of Miss Parish (or county) of Lamar
on the 5 day of July in the year 1918 I am now 38 years, 11
months and ___ days of age. I have resided in the State since 1934
in this Parish since 1934 and in Precinct No. 2, in Ward No. 4
of this Parish continuously since 1934. I am not disfranchised by any provisions of the Constitution
of this State. The name of the householder at my present address is J Curtis Thomas
My occupation is Clerk My color is Negro My sex is Male
I am not now registered as a voter in any other Ward or Precinct of this State, except
My last registration was in Ward 4 Precinct 2 Parish Washington
I am now affiliated with the Dem Party.
Signature J Curtis Thomas
Sworn to and subscribed before me Curtis Cox Deputy Registrar

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Washington

PERSONALLY CAME AND APPEARED BEFORE ME Frankie K Thomas
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington
STATE OF LOUISIANA.
E R McElveen AND Eugene Farmer
WHO BEING DULY SWORN, DO DEPOSE AND SAY:
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT James Davis
REGISTERED FROM 712 Delaware St.
(Municipal number and street, if any)
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO. WARD 4
PRECINCT 2, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:
misspelling on application
Violated printed instruction on application
AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4 PRECINCT, 2. THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.
SWORN TO AND SUBSCRIBED E R McElveen
BEFORE ME, ON THIS 15th
DAY OF April, 1959 Eugene Farmer
Frankie K Thomas
(Deputy) Registrar of Voters

99-NN Supreme Court of Louisiana

No. 44836

STANLEY J. SMITH AND HIRAM J. WRIGHT

Versus

MARY C. FLOURNOY, REGISTRAR OF VOTERS FOR WINN PARISH

In Re Mary C. Flournoy Applying for Writs of Certiorari, Prohibition, and Mandamus and for a Stay Order.

FOURNET, C. J., dissents and assigns written reasons.

Simon, J., dissents.

HAWTHORNE, J.

This proceeding was instituted by Stanley J. Smith and Hiram J. Wright, registered voters of Winn Parish, against Mary C. Flournoy, Registrar of Voters for that parish, under the provisions of R.S. 18: 133 and 134. Petitioners allege that they are entitled to the issuance of a rule directed to the registrar of voters to show cause why she should not mail out notices to, and make publication of the names of, eight persons named in the petition, who it is alleged are illegally registered. To the petition the registrar of voters filed exceptions of vagueness, no cause and no right of action, non-joinder, and a plea of unconstitutionality. The exceptions and the plea were overruled. The registrar applied for writs to this court, writs were granted, and the case is now before us under our supervisory jurisdiction. The case has not been tried on the merits.

The pertinent provisions of Title 18 of the Louisiana Revised Statutes read:

"Sec. 132. Whenever the registrar has reason to believe that any name upon the books of registration has been illegally or fraudulently placed therein, or that any person has lost the right to remain thereon, he shall immediately notify the person by mail, at his address appearing upon the precinct register, of the alleged irregularity in registration, sending with the notification a printed citation requiring the person to

99-OO appear within ten days from the mailing of the notice and citation, which date shall be stated in the citation, to show cause why his name should not be erased from the

precinct register. The registrar, as soon as at least six names have accumulated, or in any event within not more than five days after mailing the notification, shall publish a notice segregating such names by ward and precinct, and requiring the registrants to appear in his office and prove the correctness of their registration. * * * The publication shall require the registrants to appear within three days of the last publication and prove the correctness of their registration. If the registrant fail to appear within three days from the date of last publication, or within ten days from the date of mailing of the notice, whichever date is later, the registrar shall at once cancel the names from the precinct register and make a note thereon of the date of cancellation. However, if the registrants appear in person within the time aforesaid, and proof is submitted by them in the form of an affidavit signed and sworn to before the registrar or his deputy by three bona fide registered voters of the parish, that such persons are legally entitled to remain on the books of registration, their names shall remain as voters on the precinct register, unless ordered erased therefrom by order of court, as provided in this Part.

"The form of affidavit to be sworn to by the three bona fide registered voters shall read as follows:

"'Personally came and appeared on this the .... day of ..... 19.., before me, ...(Deputy) Registrar of Voters in and for the Parish of ..... State of Louisiana, ... and ..... who being first duly sworn by me, do depose and say:

"'That they are each personally acquainted with ..... registrant; that they have investigated the facts of the case, and of their own personal knowledge know that ..... now resides at ..... Street, Precinct No. ..... Ward No. ..... of this Parish, and has continuously resided in that precinct and ward for the past ....., months, and during that time has resided at the address aforesaid, and has resided in the Parish of ..... for a period of .....'

"* * *

99–PP "SEC. 133. Upon an affidavit signed and sworn to in duplicate before and filed with the registrar or his deputy by any two bona fide registered voters of the parish, to the effect that after reasonable investigation and on information and belief certain persons are *illegally registered*, or have

lost their right to vote in the precinct, ward, or parish in which they are registered by reason of removal or otherwise, the registrar shall immediately, or, in any event, within forty-eight hours, notify the registrants by mailing to them postage prepaid, at the addresses given in the precinct register, the duplicate copy of the affidavit, together with a printed citation requiring them to appear in person before the registrar or his deputy within ten days from date of the mailing of the duplicate affidavit and citation, which date shall be stated in the citation, and prove their right to remain on the registration rolls by affidavit of three bona fide registered voters in the form as provided in R.S. 18:132. The registrar shall immediately make a similar publication, as provided for in R.S. 18:132, and if the challenged registrants fail, within the same delays provided in that Section, to prove their right to remain on the rolls, as in that Section provided, the registrar shall erase their names from the precinct register. [Italic ours.]

"SEC. 134. Should the registrar fail or refuse to mail the notice, to make the publication, or to erase a name when by the provisions of this Chapter it becomes his duty to do so, the person making the affidavit may, by rule on the registrar returnable within forty-eight hours after service, excluding Sundays and legal holidays, apply to the district court for the parish, without cost, and cause the registrar to show cause why such should not be done. The rule shall be tried in a summary way and by preference, in term time or in vacation, and the court shall immediately upon conclusion of the hearing enter its order in the premises. If the rule is granted, it shall fix a period of not more than three days from the date of the order within which the registrar shall comply therewith, and failing in which the registrar shall be held in contempt of court and punished accordingly."

99-QQ Relator takes the position that she does not have to mail the notices or make the publication provided in R.S. 18:133 because the statute is unconstitutional in that it violates provisions of both the state and federal constitutions. Under the view we take of this case it is not necessary for us to detail the grounds of unconstitutionality alleged by relator.

The registrar of voters is a public officer appointed under the provisions of Section 18 of Article 8 of the Constitution. R.S. 18:133 makes it the mandatory duty of the registrar to mail the notices and make the publication as therein provided.

In other words, the doing of these things is a statutory duty of a ministerial character. Under the settled jurisprudence of this court relator is without interest to assert the unconstitutionality of the statute as a defense to a suit to compel the performance of ministerial duties imposed upon her by law. In State ex rel. New Orleans Canal & Banking Co. v. Heard, 47 La. Ann. 1679, 18 So. 746, it was said:

"In State *ex rel.* Nicholls, Governor, VS. Shakspeare, Mayor, 41 An. 156, this question arose and was expressly decided, the court holding that 'laws are presumed to be constitutional until the contrary is judicially established; and they must be executed by the officers upon whom they impose the duty of doing so, who have no authority to resist the execution thereof on the ground that they contravene the constitution.'

* * *

"In *mandamus* proceedings against a public officer, involving the performance of official duty, nothing can be inquired into but the question of duty on the face of the statute, and the ministerial character of the duty he is charged to perform.

"After a careful investigation of the authorities, we feel fully confirmed in the correctness of the conclusions we arrived at in Nicholls, Governor, vs. Shakspeare, Mayor, and other cases, to the effect that executive officers of the State government have no authority to decline the performance of purely ministerial duties which are imposed upon them by a law, on the ground that it contravenes the Constitution.

99-RR "Laws are presumed to be, and must be treated and acted upon by subordinate executive functionaries as constitutional and legal, until their unconstitutionality or illegality has been judicially established, for in all well-regulated government, obedience to its laws by executive officers is absolutely essential, and of paramount importance.

"Were it not so the most inextricable confusion would inevitably result, and 'produce such collisions in the administration of public affairs as to materially impede the proper and necessary operations of the government.'

" 'It was surely never intended that an executive functionary should nullify a law by neglecting or refusing to execute it.'

"The result of this conclusion is, that respondents are without right to urge the unconstitutionality of the concurrent resolution which is involved."

In the recent case of Dore v. Tugwell, 228 La. 807, 84 So. 2d 199, this court stated:

"The Heard case, which represents the majority view in this country, enunciates the general rule that a public officer, charged with statutory duties of a ministerial character, is without interest or right to question the constitutionality of the statute affecting or prescribing such duties as a defense to amandamus proceeding to compel their performance. See Annotation 129 A.L.R. 941, supplementing 30 A.L.R. 378, and cases there cited. This doctrine is founded in the basic tenet that, forasmuch as legislative acts are entitled to great respect and are presumptively constitutional, it would be inimical to public policy to allow a party without interest in a statute, and who is not injuriously affected by its enforcement, to assail its validity. City of New Orleans v. Dameron, 149 La. 535, 89 So. 685."

See also State v. Board of Supervisors, 228 La. 951, 84 So. 2d 597; Louisiana Motor Vehicle Commission v. Wheeling Frenchman, 235 La. 332, 103 So. 2d 464.

99 SS Relator recognizes the existence of the general rule pronounced in the cases cited above, but argues that it has no application to her in the instant case. For instance, she contends that she has taken an oath to support the Constitution, that this is her first duty, and that she cannot enforce a law directly in conflict with the Constitution. Relator's argument is not tenable. Under Article 19, Section 1, of the Louisiana Constitution of 1921, all officers, except as otherwise provided in the Constitution, must take an oath to support the Constitution, and if we were to hold that the mere fact of taking such an oath allows the public official taking it to question the constitutionality of a statute which he is entrusted with administering, we would in effect do away with the general rule altogether. Moreover, under Article 19, Section 1, of the Constitution, the officer making the oath must swear that he "will support * * * the Constitution *and laws* of this State * * *".

Relator also says that the statute makes it her mandatory duty to get out the notices within 48 hours whether there be 10 or many thousands of them; that she is subject to a penalty of fine and imprisonment for violation of the registration laws; that there is a total absence of any standard or formula in the

statute as to the number of challenges the registrar shall receive, and that as a consequence she is directly affected by the act and should be permitted to raise the constitutional question. We are not impressed with this argument. In these proceedings the registrar is not being prosecuted for violating the statute and is not here called upon to defend herself against the possible imposition of a penalty.

Relator also contends that the general rule is not a hard and fast one in Louisiana and cites several cases in which she contends an exception to the general rule was made. The cases cited and relied on are not appropriate and controlling here. We think the Heard, Dore, and other cases cited above are fully decisive of the issue here presented.

In support of her exceptions of no cause and no right of action and of vagueness relator contends that the affidavits 90-TT filed by the two bona fide registered voters in this case are defective. Each affidavit in this case is in the language of the statute, and after naming the registrant and averring that he is illegally registered, it then specifically sets forth the reasons for the illegal registration. It is true that in the body of each affidavit it is recited that the two bona fide registered voters "Personally came and appeared before me Mrs. Mary Flourney (Deputy) Registrar of Voters in and for the Parish of Winn State of Louisiana", whereas the jurat provides "Sworn to and subscribed before me, on this 21st day of August, 1959. [signed] Lottie N. Tulles, Deputy Registrar of Voters". It is to be noted, however, that relator does not contend that the affidavits were not sworn to and signed before the deputy registrar of voters. In our opinion the affidavits are sufficient under the provision of the statute that such affidavits are to be signed and sworn to before the registrar or the deputy registrar of voters. The jurats clearly show that these affidavits were signed and sworn to before the deputy registrar of voters, and thus the requirements of the statute are met.

Relator also argues in support of her exception of no cause and no right of action that R.S. 18: 133 does not encompass the irregularities or illegalities set forth in the affidavits; that only voters who are registered in the wrong parish, ward, or precinct may be summarily challenged by affidavit under this statute; that the only irregularity or illegality toward which the statute is directed is lack of residence.

Relator contends that the words "illegally registered" in Section 133 refer only to those persons who are illegally registered because they do not possess the residence requirements for registration in the particular precinct, ward, and parish. She argues that she is supported in this conclusion by the form of affidavit set forth in Section 132 as the only means by which a challenged person may offset the challenge.

In considering the provisions of Section 133 we are to be guided by certain recognized rules of statutory construction.

In Dore v. Tugwell, supra, the court stated:

"* * * It has been many times said that it is the function of the courts to interpret the laws so as to give them the connotation the lawmaker obviously intended and not to construe them so rigidly as to give them preposterous or odd meanings. State ex rel. Womack v. Jones, 201 La. 637, 10 So. 2d 213; Berteau v. Police Jury of Parish of Ascension, 214 La. 1003, 39 So. 2d 594 and Webb v. Parish Council of Parish of E. Baton Rouge, 217 La. 926, 47 So. 2d 718. The object of the court in construing a statute is to ascertain the legislative intent and, where a literal interpretation would produce absurd consequences, the letter must give way to the spirit of the law and the statute construed so as to produce a reasonable result. Bradford v. Louisiana Public Service Commission, 189 La. 327, 179 So. 442; See also City of Shreveport v. Gregory, 186 La. 407, 172 So. 435."

R.S. 18: 133 provides that upon affidavit sworn to in duplicate before and filed with the registrar or his deputy by two bona fide registered voters of the parish, to the effect that after reasonable investigation and on information and belief "certain persons are illegally registered, or have lost their right to vote in the precinct, ward, or parish in which they are registered by reason of removal or otherwise", the registrar shall within the time provided give notice to the registrants and make citation and publication as set forth in the statute.

Relator is, of course, correct when she says that one is "illegally registered" if he lacks the prescribed residence requirements. But since there are many requirements besides residence for a valid registration as a voter in this state, it is obvious that one may also be "illegally registered" for lack of any of these other qualifications prescribed by the Constitution and statutes. A careful consideration of this whole stat-

ute convinces us that there is only one reasonable interpretation of this provision, and that is that the registrants whose registration may be challenged under the statute are (1) those "illegally registered"—that is, those who do not possess all the qualifications for registration set forth in Article 8, Section 1, of the Constitution and R.S. 18: 31—

99-VV

and (2) those who at the time of their registration possessed the qualifications provided in the Constitution and statutes of this state but who have lost their right to vote in the precinct, ward, or parish in which they are registered by reason of removal or otherwise. The statute clearly intends that the registration of persons falling into either category may be challenged by two bona fide registered voters of the parish in the manner set forth therein, and that when such challenges are made, it is the mandatory duty of the registrar to notify the challenged registrants in the manner provided by the statute and to issue citation to the persons challenged to appear before the registrar within the time set forth in the statute and prove their right to remain on the registration roll.

The statute further provides that any person whose registration is challenged may prove his right to remain on the registration roll by affidavit of three bona fide registered voters in the form provided in R.S. 18:132. The form of the affidavit as set forth in R.S. 18:132 is to the effect that the affiants are acquainted with the registrant who has been challenged and have investigated the facts of the case and of their own personal knowledge know that he resides at ..... Street, Precinct No. ..... Ward No. ..... of this parish, and has continuously resided in that precinct and ward for the past ..... months and during that time has resided at the address aforesaid and has resided in the Parish of ..... for a period of .....

Relator argues that since the statute provides that the challenged registrant may prove his right to remain on the registration roll by such an affidavit, this clearly shows that under this statute the only ground of challenge is failure to meet the residence requirements. In other words, she contends that the statute contemplates that one's registration may be challenged only on the ground that he has moved from the precinct, ward, or parish in which he is registered, or that he has never lived there, or that he has not lived there sufficiently long to be a

qualified elector; and she argues that although he may be illegally registered for failure to meet some other requirement laid down by the Constitution and statutes of this state.

99–WW such an illegal registration cannot be challenged under this section.

To give this interpretation to the statute we would have to ignore completely the comprehensiveness of the term "illegally registered" and construe it narrowly to mean "illegally registered by virtue of the fact that they do not possess residence qualifications". We are convinced that the statute contemplates the challenge of any person whose registration is illegal for lack of any of the requirements for registration set forth in the Constitution and statutes.

The Legislature by enacting R.S. 18:133 clearly intended to provide a method of removing from the registration rolls (1) those registrants who are illegally registered—that is, those who did not possess the legal qualifications for registration required by the Constitution and statutes of this state at the time of their registration—and (2) those registrants who were legally registered at the time of their registration but who have lost their right to vote in the precinct, ward, or parish in which they are registered by reason of removal or otherwise. This intent is clear and unmistakable, and, the legislative intent being clear, it is the duty of the court to give full effect to this intent if possible.

To accept relator's contention that the language used in the form of the affidavit shows that registrants may be challenged under this statute only because of lack of residence qualifications would have the effect of nullifying the intent of the Legislature in regard to the right to challenge registrants who are illegally registered because they lack some requirement other than that of residence.

As we view the statute, the affidavit is simply an example of the type of affidavit that a challenged registrant would have three registered voters make were he challenged on the grounds of want of residence in the precinct, ward, or parish. When the statute is interpreted in this manner, the intent of the Legislature and the spirit of the law are given effect, and the statute is construed so as to produce a reasonable result.

99–XX In support of her exception of non-joinder relator contends that the registrants whose right to remain on the registration roll is being challenged should be made parties

defendant. There is no reasonable basis for this exception. It is clear from R.S. 18:134 that the only indispensable or necessary party defendant in this suit is the registrar.

For the reasons assigned the judgment of the district court overruling relator's exceptions and plea of unconstitutionality is affirmed, and the case is remanded to the lower court for further proceedings according to law.

Supreme Court of Louisiana

No. 44,836

99–YY STANLEY J. SMITH AND HIRAM J. WRIGHT

v.

MARY C. FLOURNOY, REGISTRAR OF VOTERS FOR WINN PARISH

FOURNET, *Chief Justice, dissenting.*

I am in accord with the majority view that under the jurisprudence generally prevailing the only issue that can be inquired into in a mandamus proceeding against a public officer involving the performance of an official duty is the ministerial character of the duty the officer is charged with performing on the face of the statute. But I cannot agree with the construction placed on RS 18: 133 in the majority opinion, and particularly when this section is read in connection with RS 18: 132.

It is my opinion that RS 18: 133 does not encompass the irregularities or illegalities set forth in the affidavits in this proceeding, as the only irregularities or illegalities there sought to be reached are those having to do with the possession of the necessary residence requirements in a particular precinct, ward, and parish. This conclusion is not only supported by the clear language of the statute itself, but also by the language in the affidavit required to be submitted, which is set out in full in RS 19: 132. Consequently, the trial judge erred in not dismissing this suit on the exceptions of no cause and no right of action.

99–ZZ It would seem to me, however, that although under the generally prevailing rule that the officer who is being coerced to perform a ministerial duty in a mandamus proceeding cannot challenge the constitutionality of the law imposing the duties sought to be enforced, we have often—

and should—relax this rule in cases where the exigencies demand it, and decide all of the issues.

I do not think I need say that this matter, affecting as it does a statewide election for all local, parish, and state officials that is being conducted under a mandate of the constitution, is of utmost importance, for the result of the decision, whatever it may be, may well be the determining factor in the outcome of the election of some of these various officials. This is particularly true when we consider that Article VIII of the Constitution of 1921, dealing with suffrage and elections, declares that after January 1, 1922, the right to vote in Louisiana "shall not exist except under the provisions of this Constitution". (Section 1), and then, in the same section, there is set out the qualifications of those eligible to vote in this state and the manner of registering them. (See, also, Sections 2 and 3.) Section 4 makes it the mandatory duty of the legislature to enact laws to secure fairness in party primary elections, conventions, or other methods of naming party candidates and limiting the right to participate in such nominations to those who are duly qualified voters or "electors under the provisions of this Constitution."

Section 5 grants to any qualified person who may be denied registration the right to apply to the district court for relief and makes it the mandatory duty of the court to try such case "in preference over all other cases *before a jury of twelve, nine of whom must concur to render a verdict*;" the verdict as finally rendered not being subject to appeal on review. As to any names that may be illegally on the registration rolls of any parish, the right to have those names stricken from the rolls is specifically given in the next paragraph of Section 5 to any duly qualified and registered voter by applying to the 99-A.A district court for that purpose, but this application also must be tried by preference *before a jury of twelve*, nine of whom must concur to find a verdict, and their verdict is final except as to the person whose name is stricken from the role thereby, he alone being given the right of appeal. (The emphasis has been supplied.)

It is not the function of a court to order a public officer to do a vain and useless thing, and from the foregoing it is clear that the registrar is without authority to remove names from the rolls except in the manner provided in the second para-

graph of Section 5. I have no doubt that those whose names are sought to be stricken from the rolls in this proceeding—as well as in all other similar proceedings—will avail themselves of this constitutional provision.

I must, therefore, respectfully dissent.

99-BBB

Affidavit

Filed Nov. 18, 1959

[File endorsement omitted.]

STATE OF LOUISIANA,
Parish of Orleans:

Before me, the undersigned authority, a Notary Public duly commissioned and qualified in and for the Parish of Orleans, State of Louisiana, personally came and appeared Frank A. Sass, Jr., who, being duly sworn, did depose and say:

That he is a Special Agent of the Federal Bureau of Investigation, stationed at New Orleans, Louisiana; that in connection with his official duties he did participate in the photographing in the City of Franklinton, Parish of Washington, State of Louisiana, on November 10, 1959, of the following records, documents and papers:

1. The Registration Cards of E. Ray McElveen, Diaz D. McElveen, Saxon Farmer, and Eugene Farmer;

2. The Registration Cards, Affidavits of Challenge, and Citations to Erase for each of the original Negro registrants, except Albert Wilson, cited in the complaint filed by the Government in the case United States of America versus D. D. McElveen, et al., Civil Action No. 9146, Eastern District of Louisiana;

3. The Registration Cards, Affidavits of Challenge, and Citations to Erase for the nine white registrants challenged by the four individuals mentioned in paragraph 1 above;

4. 200 Registration Cards of various individuals presently on the Registration Rolls of Washington Parish, Louisiana, picked at random from various precincts and wards; and

5. The Registration Cards, Affidavits of Challenge, and Citations to Erase, pertaining to 138 Negro voters, picked at random, from those registrants in Washington Parish who have been challenged by the same four individuals mentioned in paragraph 1 above.

That all of the above records, documents and papers were and are, in the possession, custody and control of Curtis M. Thomas in his official capacity as Registrar of Voters of Washington Parish, State of Louisiana, and form part of the Registration Records of said parish.

FRANK A. SASS, Jr.

Sworn to and subscribed before me this 18th day of November, 1959.

[SEAL] M. HEPBURN MANY,
Notary Public.

100 In United States District Court

Findings of fact and conclusions of law

Filed Jan. 11, 1960

WEST, *District Judge:*

In the spring of 1959 the Citizens Council, professing a purpose to purge the registration rolls of Washington Parish, Louisiana, of all persons illegally registered, succeeded in disenfranchising 85% of the Negro voters of the Parish and 0.07% of the white. The United States in this action charges that this profession of high purpose was a fraud designed to deny Negro citizens of the right to vote. Made defendants and charged with conspiring with the Citizens' council are several members of the council and the Registrar of Voters for Washington Parish.

In a prior action this court denied the defendants' motion to dismiss. United States v. McElveen, 177 F. Supp. 355. Here the United States has moved for a temporary injunction. Based on the evidence offered by all parties in connection with this motion, this court now makes the following Findings of Fact and Conclusions of Law:

101 *Findings of fact*

1. Individual Defendants Diaz D. McElveen, E. Ray McElveen, Saxon Farmer, and Eugene Farmer are, and at all times material hereto were, registered voters of Washington Parish, Louisiana, and during the period from November 1, 1958 through July 1, 1959 were members of the Defendant Citizens Council.

2. Defendant Registrar Curtis M. Thomas is, and has been since September 1949, the Registrar of Voters of Washington Parish, Louisiana, with his office in Franklinton, Louisiana.

3. Defendant Citizens Council of Washington Parish, Louisiana, is and at all times material hereto was, a nonprofit corporation incorporated under the laws of the State of Louisiana and domiciled in Washington Parish, Louisiana. One of its purposes is to maintain racial segregation in said parish.

4. Registration is a prerequisite under state law to voting in any election in the State of Louisiana, and may be either permanent or periodic. Washington Parish, Louisiana became a permanent registration parish in May of 1958 and a registered voter of this parish is not required to reregister unless his name is cancelled from the registration rolls in accordance with law.

5. The Defendant Registrar in his official capacity as Registrar of Washington Parish was and is responsible, among other things, for registering of qualified applicants for registration, for keeping and preserving of registration records,
102 and for cancelling from the registration rolls the names of all voters who lose their right to remain on the rolls.

6. Each registered voter of Washington Parish has a registration card, Form of Application for Registration, which, except in the cases of illiterates and the physically disabled, is entirely filled out by the registrant and sworn to before the Defendant Registrar. The registration cards of current registrants are maintained in the office of the Registrar of Voters, and are filed in alphabetical order by precincts within the nine wards that comprise Washington Parish.

7. Acting under the authority of the laws of Louisiana, and more particularly Section 245, Title 18 Louisiana Revised Statutes of 1950, the Individual Defendants, commencing in February 1959 and ending in June 1959, filed in the office of the Defendant Registrar affidavits challenging the right of approximately 1,377 Negroes and approximately 10 white persons to remain on the registration rolls as qualified voters.

8. In filing the aforesaid challenges the Individual Defendants used the facilities of the office of the Defendant Registrar, the official records kept therein, and the Forms of Affidavit of Challenge provided for by the laws of Louisiana.

9. The Defendant Registrar, acting under the authority of Title 18 Section 245 of the Louisiana Revised Statutes of 1950,

issued and caused to be issued to the persons challenged, Citations of Notice to Erase requiring them to appear at the office of the Defendant Registrar and prove by written affi-
103 davit of three bona fide registered voters their right to remain on the registration rolls.

10. Following and as a result of the challenges made by the Individual Defendants, the names of the persons challenged were removed from the registration rolls of Washington Parish. The number so removed was approximately 98% of the total that was removed from the rolls of Washington Parish during the period November 1, 1958 through July 1, 1959.

11. On November 30, 1958 there were 11,444 white persons and 1,517 Negroes registered to vote in Washington Parish, Louisiana. On June 30, 1959 there were 12,228 white persons and 236 Negroes registered to vote there. The decline in the number of registered Negro voters in Washington Parish between the dates November 4, 1958 and June 16, 1959 was a direct result of the filing in the office of the Registrar of Affidavits of Challenge by the Individual Defendants.

12. The Affidavits of Challenge filed by the Individual Defendants purported to be based on defects or deficiencies in the registration cards such as misspellings, deviations from printed instructions, failure to compute age with exact precision, and illegible handwriting.

13. The same defects and deficiencies are to be found in at least half of the registration cards of the white citizens of Washington Parish currently on the registration polls. Analysis of a random sampling of 200 cards, 198 of which were of white persons, revealed that over 60% had such defects and inconsistencies, and the Defendant Registrar, who has worked
104 with all registration cards since 1949, testified that at least 50% had such errors and omissions.

14. In examining the Washington Parish registration records for the purpose of filing the said Affidavits of Challenge, the Individual Defendants limited their examination almost exclusively to the registration records of Negro voters while making only a token examination of the registration records of white voters. The Individual Defendants made no examination of the registration records pertaining to those wards in which no Negroes were registered and they challenged no voters in those wards.

15. The acts and practices of the Individual Defendants, as described, were committed and engaged in for the purpose and with the effect of depriving Negroes, solely because of their race or color, of the right to register and vote.

16. Based upon his knowledge that (a) the Individual Defendants virtually confined their examination of the registration records to those of Negro voters (b) the challenges were directed almost entirely to Negroes and not white persons, and (c) the Individual Defendants filed Affidavits of Challenge involving defects and deficiencies which he knew also appeared in the records of white persons, against whom Affidavits of Challenge were not filed, the Defendant Registrar was well aware of the racially discriminatory character of the challenges of the Individual Defendants.

17. Defendant Citizens Council at all times pertinent to this action approved and endorsed the aforesaid acts and
105 practices of the Individual Defendant all of whom were members of the Defendant Citizens Council.

18. But for the acts and practices of the Individual Defendants in filing the Affidavits of Challenge as described and the action of the Defendant Registrar in giving effect to such challenges, the approximately 1377 Negroes previously registered to vote and removed from the registration rolls would be presently registered to vote.

19. Unless restored to the registration rolls of Washington Parish the approximately 1377 Negroes previously registered to vote will be unable to vote in the General Election to be held April 19, 1960.

Conclusions of law

1. This court has jurisdiction of this action. 28 U.S.C. 1345; 42 U.S.C. 1971(d).

2. The Individual Defendants, in challenging the registration status of voters, were acting under color of the laws of Louisiana. Providing for and supervising the electoral process is a state function. *Terry* v. *Adams*, 345 U.S. 461. The Individual Defendants participated in this state function under express authority of Louisiana law, using state facilities made available to them. L.R.S. 18:245. Their actions formed the basis of the removal of citizens from the registration rolls by the Defendant Registrar acting in his official capacity. See *Shelley* v. *Kraemer*, 334 U.S. 1, 20.

3. The challenges by the Individual Defendants, endorsed and supported by the Defendant Citizens Council of
106 Washington Parish, of which they were and are members, although not patently discriminatory on the face of each, were actually massively discriminatory in purpose and effect, and as such unconstitutional. U.S. Constitution, 15th Amend.; 42 U.S.C. 1971(a). The result of the challenges was to remove almost all of the Negro voters from the rolls and leave the white voters practically untouched, even though over 50% of the white registration cards have the same defects and deficiencies as did the challenged Negro cards. A court need not, and should not, shut its mind to what all others can see and understand. Child Labor Tax Case, 259 U.S. 20, 37. Discriminatory application of a statute, even one unobjectionable on its face, is unconstitutional. Yick Wo v. Hopkins, 118 U.S. 356; Lane v. Wilson, 307 U.S. 268.

4. The action of the Defendant Registrar in giving effect to the mass challenges of the Individual Defendants achieved a discriminatory result in violation of his duties under the 15th Amendment. Whether or not he had the racially discriminatory purpose which motivated the action of the Individual Defendants and the Defendant Citizens Council is irrelevant as a matter of law. Avery v. Georgia, 345 U.S. 559.

5. The challenges, having been made in violation of the 15th Amendment and 42 U.S.C. 1971(a), were and are themselves null, void and ineffective for any purpose, and the voters taken off the registration rolls as a result of these challenges were accordingly illegally Removed. Thornton v. Martin, 1 Race Relations Law Reporter 213 (1956). It is of no bearing
107 that some or all of the defects and deficiencies set out as basis for the challenges may in fact exist, and if nondiscriminatorily cited, could constitute legal grounds for removal of voters from the rolls as indicated in Thomas v. McElveen, et al., Civil Docket No. 18,751, 22nd Judicial District Court, Parish of Washington, Louisiana. This is not a matter of a failure or inability to show a common injury. Compare Reddix v. Lucky, 252 F. 2d 930. Here the common injury, which is the fatal defect of each challenge, is a shared discrimination in the application of the law. Frasier v. Board of Trustees, 134 F. Supp. 589, aff'd. per curiam 350 U.S. 979.

6. Plaintiff, the United States of America, has an interest and obligation broader than that of any other individual litigant, which should be taken into account in giving effect to the broad remedial purposes of the Civil Rights Act of 1957. This is not a case as between private parties and should not be so construed. Georgia v. Tennessee Copper Co., 206 U.S. 230, 237. Courts of equity may, and frequently do, go much further both to give and to withhold relief in furtherance of the public interest than they are accustomed to go where only private interests are concerned. Virginian Railway Co. v. System Federation No. 40, 300 U.S. 515, 552.

7. The principle of the exhaustion of administrative remedies has no application to this case, since the qualifications of the persons challenged are not here at issue. The discrimination involved lies in part in the very act of subjecting the Negroes to the process of resorting to administrative
108 remedies which are not required of white voters similarly situated. To require exhaustion of administrative remedies would make this court a party to the discrimination claimed. Shelly v. Kraemer, 334 U.S. 1. In any event, the law itself expressly dispenses with the requirement of the exhaustion of administrative remedies. 42 U.S.C. 1971(d). And where a person "has been illegally removed from the voters' list his remedy lies in having the illegal action rescinded, not in re-registering." Reddix v. Lucky, 252 F. 2d 930, 937.

8. This court has jurisdiction to issue an appropriate injunction in this case. 42 U.S.C. 1971(c).

Judgment for plaintiff.

(S) J. SKELLY WRIGHT.
Judge.

In United States District Court

Decree

Jan. 11, 1960

Pursuant to the Findings of Fact and Conclusions of Law, entered this date, it is ordered, adjudged and decreed that, pending further order of this court:

1. Diaz D. McElveen, E. Ray McElveen, Saxon Farmer, and Eugene Farmer, individually and as members of the Citizens Council of Washington Parish, Louisiana, together with

their agents and any persons acting in concert with them who have actual notice of this decree, are hereby enjoined from causing or initiating challenges or filing any affidavits of challenge which have as their purpose or effect discrimination based on race or color against registrants of Washington Parish, Louisiana, and from further engaging in any other acts and practices which would interfere with the rights of any citizens of the United States to vote at any election without distinction of race or color.

2. The Citizens Council of Washington Parish, Louisiana, its officers, members, agents, and any persons acting in concert with it who have actual notice of this decree, is hereby enjoined from causing or in any way participating in the filing of affidavits of challenge which have as their purpose or effect discrimination based on race or color against registrants of Washington Parish, Louisiana, and from further engaging in any other acts and practices which would interfere with the rights of any citizens of the United States to vote at any election without distinction of race or color.

3. Curtis M. Thomas, individually and as Registrar of Voters of Washington Parish, Louisiana, his deputies and agents, and the successors of each, are hereby enjoined as follows:

(a) From giving any legal effect whatsoever to the approximately 1377 challenges filed in the office of Registrar of Voters of Washington Parish, Louisiana against Negro registrants of that parish by the four individuals named in paragraph 1 of this decree during the period February 1, 1959, to June 16, 1959, both inclusive, or from giving any legal effect to any prior proceedings or orders based directly or indirectly upon such challenges.

(b) From permitting the names of any of the approximately 1377 persons challenged as set out in paragraph 3(a) of this decree, to remain off the present and current rolls of qualified voters of Washington Parish, Louisiana, or from a legal supplement thereto, longer than ten days from the date of this decree. It is the intent and purpose of this paragraph that the persons enjoined shall do whatever is necessary to be done to reinstate within ten days from the date of this decree upon the current rolls of qualified voters in

Washington Parish and upon all official copies thereof, the names of all of the said approximately 1377 persons.

(e) From acting upon or giving effect to any challenges of registrants in Washington Parish, Louisiana which might hereafter be filed in his office which have as their purpose or effect discrimination based upon race or color.

4. In effectuation of this decree, Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana, is further ordered to file with the Clerk of this Court within ten days from the date hereof, a detailed report in writing of his full compliance with the provisions of paragraph 3(b) of this decree.

5. In further effectuation of this decree, Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana, together with his successors, is further ordered to keep and maintain, from and after February 1, 1960, a tabulation showing the number of registrants of each race whose right to remain on the registration rolls of Washington Parish is challenged. If at the end of any three-month period thereafter, more
111 than 5% of the registrants of any one race shall have been challenged, he shall within ten days thereafter submit to this court a detailed report in writing concerning such challenges, giving the bases thereof and indicating whether the same or similar bases of challenges appear in the records of other registrants.

6. In further effectuation of this decree, the parties to this cause may at any time apply to this court for an order for the inspection of, and photographing of, any or all records in the office of the Registrar of Voters of Washington Parish, Louisiana.

This court retains jurisdiction of this cause of the purpose of issuing any and all additional orders herein as may, in its judgment, become necessary for the purpose of modifying the same if, in its judgment, modification becomes necessary, and for the purpose of enforcing the same.

New Orleans, Louisiana, this 11th day of January, 1960.

(S) J. SKELLY WRIGHT,
Judge.

In United States District Court

Notice of Appeal by Thomas

Filed Jan. 15, 1960

Notice is hereby given that Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana, one of the Defendants in the above named action, hereby appeals to the Circuit Court of Appeals for the Fifth Circuit from the final judgment entered in this action on 11 January 1960.

112 13 JANUARY, 1960.

(S) Jack P. F. Gremillion,
JACK P. F. GREMILLION,
Attorney General, State of Louisiana,

(S) M. E. Culligan,
M. E. CULLIGAN,
Assistant Attorney General,

(S) Weldon A. Cousins,
WELDON A. COUSINS,
Assistant Attorney General,

(S) Henry J. Roberts, Jr.,
HENRY J. ROBERTS, Jr.,
Assistant Attorney General,
301 Loyola Ave., Supreme Court Building,
New Orleans, Louisiana.

113 [Clerk's certificate omitted in printing.]

114 In the United States Court of Appeals for the Fifth Circuit Eastern District of Louisiana, New Orleans Division

Civil Action No. 18169

UNITED STATES OF AMERICA, PLAINTIFF

versus

DIAZ D. MCELVEEN; E. RAY MCELVEEN, SAXON FARMER AND EUGENE FARMER, INDIVIDUALLY AND AS MEMBERS OF THE CITIZENS COUNCIL OF WASHINGTON PARISH, LOUISIANA; CURTIS M. THOMAS, REGISTRAR OF VOTERS OF WASHINGTON PARISH, LOUISIANA, AND THE CITIZENS COUNCIL OF WASHINGTON PARISH, LOUISIANA, DEFENDANTS

Motion to stay order of injunction filed

January 15, 1960

(File endorsement omitted.)

Appellant, Curtis M. Thomas, Registrar of Voters, of Washington Parish, Louisiana, moves the Court to stay the mandate and injunction in the matter entitled: "United States of America, Plaintiff; versus Diaz D. McElveen, E. Ray McElveen, Saxon Farmer and Eugene Farmer, Individual and as members of the Citizens Council of Washington Parish, Louisiana; Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana, and the Citizens Council of Washington Parish, Louisiana, Defendants" for the reason that appellant will appeal the judgment of the District Court, based on the reasons; that:

(1) The District Court's decree is contrary to the laws of the State of Louisiana; and

(2) That the District Court's decree will force, by mandatory injunction, a state official to commit an unlawful act; and

115 (3) That the District Court's decree will in effect rewrite the provisions of Louisiana Law dealing with Registration of Voters and challenging thereby; without first declaring such law unconstitutional.

(4) That the decree will in effect, unconstitutionally transfer to the United States District Court certain duties and power which by State Law belongs to the Registrar of Voters for Washington Parish.

(S) Jack P. F. Gremillion,
JACK P. F. GREMILLION,
Attorney General, State of Louisiana,
(S) M. E. Culligan,
M. E. CULLIGAN,
Assistant Attorney General,
(S) Weldon A. Cousins,
WELDON A. COUSINS,
Assistant Attorney General,
(S) Henry J. Roberts, Jr.,
HENRY J. ROBERTS, Jr.,
Assistant Attorney General,
301 Loyola Ave., Supreme Court Building,
New Orleans, Louisiana.

[Certificate of service omitted in printing.]

116 In United States Court of Appeal for the Fifth Circuit

Memorandum in support of motion to stay

Filed Jan. 15, 1960

[File endorsement omitted.]

[Title omitted.]

The Plaintiff, the United States of America, in the original action in the District Court for the Eastern District of Louisiana, filed a suit requesting that a preliminary injunction issue enjoining the Defendant, Curtis M. Thomas, Registrar of Voters of Washington Parish, from continuing to accept challenges in connection with certain citizens of the state who are members of the colored race.

That on January 11, 1960, the Honorable Judge J. Skelly Wright issued a preliminary injunction, granting the Plaintiffs the relief requested and in addition, the Court enjoined the said Curtis M. Thomas, Registrar of Voters of Washington Parish as follows:

"3. Curtis M. Thomas, individually and as Registrar of Voters of Washington Parish, Louisiana, his deputies and agents, and the successors of each, are hereby enjoined as follows:

(a) From giving any legal effect whatsoever to the approximately 1377 challenges filed in the office of Registrar of Voters of Washington Parish, Louisiana, against Negro registrars of that Parish by the four individuals named in paragraph

117 1 of this decree during the period February 1, 1959 to June 16, 1959, both inclusive, or from giving any legal effect to any prior proceedings or orders based directly or indirectly upon such challenges.

(b) From permitting the names of any of the approximately 1377 persons challenged as set out in paragraph 3(a) of this decree, to remain off the present and current rolls of qualified voters of Washington Parish, Louisiana or from a legal supplement thereto longer then ten days from the date of this decree. It is the intent and purpose of this paragraph that the persons enjoined shall do whatever is necessary to be done to reinstate within ten days from the date of this decree upon the current rolls of qualified voters in Washington Parish and upon

all official copies thereof, the names of all of the said approximately 1377 persons.

(c) From acting upon or giving effect to any challenges of registrants in Washington Parish, Louisiana which might hereafter be filed in his office which have as their purpose or effect discrimination based upon race or color.

"4. In effectuation of this decree, Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana, is further ordered to file with the Clerk of this Court within ten days from the date hereof, a detailed report in writing of his compliance with the provisions of paragraph 3(b) of this decree.

"5. In further effectuation of this decree, Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana, together with his successors, is further ordered to keep and maintain, from and after February 1, 1960, a tabulation showing the number of registrants of each race whose right to remain on the registration rolls of Washington Parish is challenged. If, at the end of any three-month period thereafter, more than 5% of the registrants of any one race shall have been challenged, he shall within ten days thereafter, submit to this court a detailed report in writing concerning such challenges, giving the bases thereof and indicating whether the same or similar bases of challenges appear in the records of other registrants."

On January 15th, 1960 your applicant herein filed an application in this Honorable Court seeking to stay the effect of the preliminary injunction issued by the District Court until such time as your applicant has exhausted their appellate remedies.

The judgment of the District Court herein, clearly goes beyond the scope of the remedy sought by the plaintiff, in that:

118 (a) the judgment of the District Court in effect nullifies the registration laws of the State of Louisiana;

(b) that there are no provisions in Louisiana Law to comply with paragraph 3(a) of the District Court's judgment;

(c) that in effect the order places unqualified people on the rolls of registration contrary to the Laws of Louisiana;

(d) that the Federal Court has become a Federal Registrar of Voters;

(e) that the action of the District Court forces a state official, following a mandatory duty, to violate said duty and the laws of the State of Louisiana, the constitutionality of which laws

have not been challenged or adjudged to be unconstitutional;

(f) that the District Court Judgment number 5 has no basis in any of the Louisiana law, and is an attempt by the District Court to amend and legislate the voter registration laws of the State of Louisiana;

(g) that the plaintiffs herein have brought this action under Section 1971, (c) of Title 42 United States Code, which section has been declared to be unconstitutional (U.S. of America vs. James Griggs Raines, et als, 172 Fed. Sup. 2nd 552)

(h) under the provisions of Rule 62G, this Honorable Court has supervisory jurisdiction to stay a decree pending an appeal provided that said stay order would in effect maintain the status quo.

(S) JACK P. F. GREMILLION,
Attorney General.
(S) WELDON A. COUSINS,
Assistant Attorney General.
(S) HENRY J. ROBERTS, Jr.,
Assistant Attorney General.

119 In the United States Court of Appeals
for the Fifth Circuit

Opposition to motion to stay order of injunction

Filed Jan. 21, 1960

[Title omitted.]

[File endorsement omitted.]

Comes now the United States of America, by its attorneys, and opposes appellant Thomas's motion for stay pending appeal in the above entitled cause, and in support thereof shows this court the following:

I

The facts of this case are found in the Findings and Conclusions of the District Court which are appended hereto.

II

Appellant's motion to stay the injunction issued by the District Court should not be entertained because appellant has failed to apply for a stay to the District Court. Cumberland Tel. Co. v. Louisiana Public Service Comm., 260 U.S. 212, 219; Southern Ry. Co. v. Watts, 259 U.S. 576; United States v. El-

O-Pathic Pharmacy, 192 F. 2d 62, 79 (C.A. 9). The District Court, which has the power to grant a stay pending appeal even though notice of appeal has been filed (Rule 62(c) FRCP; Shinholt, et al. v. Angle, 90 F. 2d 297, 298 (C.A. 5), certiorari denied 302 U.S. 719) is the "court, which has considered the case on the merits and, therefore, is familiar with the record." Cumberland Tel. Co. v. Louisiana Public Service Comm., supra, at page 219. Accordingly, it is important for this court to have the benefit of the District Court's view as to the balance of the equities.

120

III

In any event, the motion should be denied. Where the issue is whether an order should be stayed pending appeal, the movant must show that he would be irreparably injured by denial of the stay. Long Beach Federal Savings & Loan Assn. v. The Federal Home Loan Bank of San Francisco, 76 S. Ct. 32, 33 (opinion of Mr. Justice Douglas); Breswick & Co. v. United States, 75 S. Ct. 912, 915 (opinion of Mr. Justice Harlan); Virginia Petroleum Jobbers Assn. v. Federal Power Commission, 259 F. 2d 921, 926 (C.A.D.C.). Even where a showing of irreparable injury is made, the court, in the exercise of its equitable powers, will deny the stay motion unless it also finds that it is likely that the movant will prevail on the merits of his appeal. In addition, after finding irreparable injury, the court, in balancing the equities will consider (1) the possible harm that a stay would cause to other parties to the proceeding, and (2) the public interest, if any. Virginia Petroleum Jobbers Assn. v. The Federal Power Commission, supra, at page 925; Breswick & Co. v. United States, supra.

IV

Appellant makes no contention that the District Court's decree, in the absence of a stay, will inflict irreparable injury upon him. He does assert that this decree is erroneous because, (1) it is contrary to the laws of the State of Louisiana; (2) it compels appellant to violate these laws; (3) it rewrites these laws without declaring them unconstitutional; (4) it transfers the powers and duties of a state registrar to the United States District Court and (5) it places unqualified persons on the registration rolls contrary to the laws of Louisiana. All of these as-

sections completely ignore the supervening power of the federal constitution upon which the decree of the District Court is based. See Art. VI, Clauses 2 and 3 of the Constitution; and see also, Ex parte Siebold, 100 U.S. 371, 395 (1879). If there is any conflict between state and federal law the obligation of the appellant is to the federal constitution. Ex parte Virginia, 100 U.S. 339, 348 (1879). "The Constitution and laws of the United States are the supreme law of the land, and to these every citizen of every State owes obedience, whether in his individual or official capacity." Ex parte Siebold, supra, at page 392. See also 4 USC, Sections 101, 102.

121 It is clear that adherence to a higher federal duty, including a duty imposed by a court decree, is a complete defense to any charge of violation of state law. Ex parte Royall, 117 U.S. 241, 251 (1885); In re Neagle, 135 U.S. 1 (1889).

Thus, if the law of Louisiana or the manner in which it is applied is in conflict with federal law, as determined by the District Court, it must yield to the demands of the federal constitution. On the other hand, if Louisiana law does not authorize the discrimination which the District Court here found, then obviously obedience by the appellant to the decree cannot be in violation of state law.[1]

V

The assertion of this motion rests ultimately on the proposition that by its decree, the District Court is compelling the registration of unqualified persons as voters. This misconstrues the basis upon which the order rests. The Findings of Fact and Conclusions of Law show that this appellant has not generally treated persons who have committed minor, technical errors in their applications as being unqualified to register and to vote under the laws of Louisiana. On the contrary, such persons have normally been treated as fully qualified. The commission of such errors was simply used with respect to the persons here involved as a palpable subterfuge as a means of disfranchising Negro citizens on account of their race or color.

[1] Planning the use of equitable relief to authenticate a constitutional right cannot be said to make the District Court a local registrar. See Reddix v. Lucky, 252 F. 2d 930 (C.A. 5, 1958), Thornton v. Martin, 1 Race Relations Law Reporter 214 (M.D. Ga. 1955).

Thus, in light of the Findings and Conclusions of the District Court the appellant cannot now be heard to assert that the citizens who are being restored to the rolls are unqualified.

VI

Moreover, as a matter of law, the Negro voters were not being requalified by the District Court's decree. The self-excluding ban of the Fifteenth Amendment nullified the challenges the moment they were made. See Guinn v. United States, 238 U.S. 347 (1915); Terry v. Adams, 345 U.S. 461 (1953). The District Court found that these challenges were void under the constitution. Accordingly, they could never become legally effective for any purpose.

122 Even if it be assumed arguendo that the decree of the court has the effect of restoring to the registration rolls persons who are not qualified under Louisiana law, still it has not been shown in what conceivable manner this could inflict injury, let alone irreparable injury, upon appellant. As we indicated above, he is insulated from any possible liability under Louisiana law by the decree of the federal court. Beyond that, this appellant could not show an injury personal to himself.

The claim is made that in this respect appellant is asserting the interest of the State of Louisiana. While his standing to make such a claim is not conceded, it is apparent in any event that the order of the District Court does not preclude the subsequent removal from the rolls of any voters who are not qualified, if the removal is by fair, non-discriminatory, legal means.

VII

Appellant claims that the judgment of "the District Court clearly goes beyond the scope of the remedy sought * * * in that (the section of the Civil Rights Act of 1957 under which this action was brought) has been declared unconstitutional." United States v. Raines, 172 F. Supp. 552.[1] Perhaps the reference to Raines is intended to demonstrate that the question here involved has substantial merit. The contention in Raines, and presumably the point made here, is that section 1971(a)(c) of T. 42, USC, is not limited to "state action" and accordingly

[1] The Raines case is presently pending on appeal in the Supreme Court. It was argued on 1/12/60.

exceeds the congressional power under the Fifteenth Amendment. The court below found that section 1971(a)(c) was clearly limited to "state action" or required by the Fifteenth Amendment. 177 F. Supp. 355. More fundamentally, however, the District Court held that the defendants had no standing to test the constitutionality of the Act as it applied to purely private action, for it is undisputed that they were acting under authority of state law. Accordingly, they could not test an allegedly unconstitutional application of the Act in the abstract. Jeffrey Mfg. Co. v. Blagg, 235 U.S. 571; Yazoo & Mississippi RR v. Jackson Vinegar Co., 226 U.S. 217.

VIII

This is not a case in which persons who have never been qualified to vote under state law are suddenly placed on
123 the rolls by a federal court order. These citizens enjoyed the franchise in Louisiana, some of them for many years. They were challenged and removed from the rolls in a manner which was clearly illegal and discriminatory. Their rights have now been restored to them by an order of a federal court acting under the constitution and under the specific mandate of the Congress expressed as recently as three years ago. Under such circumstances on a balancing of the equities the public interest requires that every presumption be indulged in favor of the retention on the rolls of these citizens. Aside from such practical injury as they might suffer, by virtue of the fact that they would, in the event of a stay, be kept from the registration rolls, the larger consideration is that these persons would certainly be adversely affected in their reputations by being excluded from their normal rights of citizenship.

Beyond this, as the District Court concluded, the United States of America has an interest and obligation broader than that of any other individual litigant, which should be taken into account in giving effect to the broad remedial purposes of the Civil Rights Act of 1957. This is not a case as between private parties and should not be so construed. Georgia v. Tennessee Copper Co., 206 U.S. 230, 237. Courts of equity may, and frequently do, go much further both to give and to withhold relief in furtherance of the public interest than they are accustomed to go where only private interests are concerned. Virginian Railway Co. v. System Federation No. 40, 300 U.S. 515, 552.

Wherefore, United States of America respectfully submits that the motion filed by appellant Curtis N. Thomas is without merit and should be denied.

Respectfully submitted.

(S) M. Hepburn Many,
M. HEPBURN MANY,
United States Attorney.

[Certificate of service omitted in printing.]

Appendix—Findings of Fact and Conclusions of Law omitted. Printed side page 100 ante.

126 In the United States Court of Appeals for the Fifth Circuit

No. 18169

CURTIS M. THOMAS, REGISTRAR OF VOTERS OF WASHINGTON PARISH, LOUISIANA, APPELLANT

versus

UNITED STATES OF AMERICA, APPELLEE

Order staying execution and enforcement of judgment and decree

Jan. 21, 1960

Before RIVES, Chief Judge, and JONES and BROWN, Circuit Judges

BY THE COURT:

Upon consideration of the Motion of appellant it is ordered that execution and enforcement of the judgment and decree entered by the United States District Court for the Eastern District of Louisiana, New Orleans Division, bearing Civil Action No. 9146, said judgment being dated January 11, 1960, is hereby stayed pending the determination of this appeal therefrom unless otherwise ordered.

(S) RICHARD T. RIVES,
Chief Judge.

JANUARY 21, 1960.

127 In the United States Court of Appeals for the Fifth Circuit Before RIVERS, Chief Judge, and JONES and BROWN, Circuit Judges

Order assigning case for hearing in New Orleans

Filed January 21, 1960.

[Title omitted.]

[File endorsement omitted.]

BY THE COURT:

It is ordered that the above entitled and numbered cause be set for hearing at New Orleans, Louisiana on Monday, March 21, 1960, on the original typewritten transcript of record, as certified by the Clerk of the United States District Court for the Eastern District of Louisiana, with four (4) legible copies of a typewritten brief for the appellant to be filed by February 11, 1960, and reply brief in like form to be filed by the appellee by February 26, 1960.

Enter for the Court this Jan. 21, 1960:

RIVES,
Chief Judge.

128 *Clerk's Certificate*

UNITED STATES OF AMERICA

United States Court of Appeals, Fifth Circuit

I, Edward W. Wadsworth, Clerk of the United States Court of Appeals for the Fifth Circuit, do hereby certify that the foregoing pages numbered from 1 to 19, contain full, true and complete copies of the following documents:

MOTION TO STAY ORDER OF INJUNCTION
MEMORANDUM IN SUPPORT OF MOTION TO STAY
OPPOSITION OF APPELLEE TO MOTION TO STAY ORDER OF INJUNCTION
ORDER GRANTING STAY PENDING APPEAL
ORDER ASSIGNING CASE FOR HEARING IN NEW ORLEANS

filed in a certain cause in this Court, numbered 18169, wherein Curtis M. Thomas, Registrar of Voters of Washington Parish,

Louisiana is Appellant, and United States of America is Appellee, as full, true and complete as the originals of the same now remain in my office.

I further certify that the pages of the mimeographed record, numbered from 20 to 135, are identical with the mimeographed record as certified by the Clerk of the United States District Court for the Eastern District of Louisiana, which was filed in this office on January 27, 1960, subsequent to the entry of the Order entered by the Court on January 21, 1960, staying the judgment and decree of the said District Court.

In testimony whereof, I hereunto subscribe my name and affix the seal of the said United States Court of Appeals at my office in the City of New Orleans, Louisiana, in the Fifth Circuit this 29th day of January, A.D., 1960.

[SEAL] EDWARD W. WADSWORTH,
Clerk, United States Court of Appeals for the Fifth Circuit.

129 Supreme Court of the United States

No. —, October Term, 1959

UNITED STATES OF AMERICA, PETITIONER

v.

CURTIS M. THOMAS, REGISTRAR OF VOTERS OF WASHINGTON PARISH, LOUISIANA, ET AL.

ON APPLICATION TO VACATE ORDER OF THE COURT OF APPEALS GRANTING STAY OF INJUNCTION PENDING APPEAL AND TO REINSTATE INJUNCTION ISSUED BY THE DISTRICT COURT

Per curiam

January 26, 1960

The application of the United States for an order vacating the stay order of the Court of Appeals entered January 21, 1960, and reinstating the decree of the District Court, together with the request of the Attorney General of Louisiana for argument thereon, have been considered by the Court.

1. It appears, as respondents pointed out in their application to the Court of Appeals for the stay herein, that the issues in United States v. Raines, No. 64, now pending on appeal in this Court, are pertinent to the disposition of this case. In view of this, and of the fact that the issues raised by this application are closely related to those involved on the merits of the controversy now before the Court of Appeals, the Court believes that the entire matter should be considered at one time. In light of the foregoing, and of the imminence of the State general election scheduled for April 19, 1960, the Court will entertain a petition for certiorari to review the judgment of the District Court, 28 U.S.C. §§ 1254(1), 2101(e), if filed by the Solicitor General on or before January 29, 1960. The petition may be filed in typewritten form. See the action of the Court as to Bolling v. Sharpe, et al., 344 U.S., at 3.

130 2. In the event that such a petition is so filed, the Court will hear argument upon the present application, the petition, and the merits, on February 23, 1960, the case to be set at the head of the calendar for that day. See Hannah v. Larche, No. 549; Hannah v. Slawson, No. 550, 361 U.S.—, December 7, 1959.

3. The record, which may be filed in typewritten form, and the Government's brief on all matters will be filed on or before February 10, 1960, and the answering briefs of the respondents will be filed on or before February 20, 1960. The Government may file a reply brief on or before February 22, 1960.

It is so ordered.

FILE COPY

Office-Supreme Court, U.S.
FILED
JAN 29 1960
JAMES R. BROWNING, Clerk

No. — 667

In the Supreme Court of the United States

OCTOBER TERM, 1959

UNITED STATES, PETITIONER

v.

CURTIS M. THOMAS, REGISTRAR OF VOTERS OF WASHINGTON PARISH, LOUISIANA, ET AL.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

J. LEE RANKIN,
Solicitor General,
Department of Justice, Washington 25, D.C.

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538489—60——1

In the Supreme Court of the United States

OCTOBER TERM, 1959

No. ——

UNITED STATES, PETITIONER

v.

CURTIS M. THOMAS, REGISTRAR OF VOTERS OF WASHINGTON PARISH, LOUISIANA, ET AL.*

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

The Solicitor General, on behalf of the United States, respectfully prays that a writ of certiorari issue in this case to the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The findings of fact and conclusions of law entered by the United States District Court for the Eastern District of Louisiana on January 11, 1960 (Appendix, *infra*, pp. 4a–11a) are not reported. The District Court's opinion of October 7, 1959, denying motions

*The complaint filed by the United States named a total of six defendants. See Appendix, *infra*, p. 1a, which sets forth the style of the case in the District Court. Only one defendant, Thomas, has thus far appealed and, precisely speaking, he is the only respondent before the Court at this time.

to dismiss the complaint (Appendix, *infra*, pp. 11a–19a), is reported at 177 F. Supp. 355.

JURISDICTION

The decree of the District Court granting a preliminary injunction (Appendix, *infra*, pp. 1a–4a) was entered on January 11, 1960. A notice of appeal to the Court of Appeals for the Fifth Circuit was filed by respondent Thomas on January 13, 1960, and the record on appeal was docketed in that court on January 27, 1960. On January 21, 1960, the Court of Appeals granted a stay, pending appeal, of the injunction issued by the District Court. On January 22, 1960, the United States applied to this Court to vacate the stay order of the Court of Appeals. On January 26, 1960, this Court entered an order (footnote 2, p. 7, *infra*) stating that it would entertain a petition for certiorari to review the judgment of the District Court if filed by the Solicitor General on or before January 29, 1960. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1), 2101(e).

QUESTIONS PRESENTED

1. Whether the Civil Rights Act of 1957 (42 U.S.C. 1971 (a), (c)), as here applied, is constitutional.

2. Whether, in the circumstances found by the District Court, the relief provided in the decree was authorized and appropriate.

STATUTES INVOLVED

42 U.S.C. 1971 (R.S. 2004, as amended by the Civil Rights Act of 1957, 71 Stat. 637) provides in pertinent part that:

> (a) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.
>
> (b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.
>
> (c) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute

for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

* * * * * *

Title 18, Louisiana Revised Statutes, 1950, provides:

§ 245. Illegal registration or loss of right to vote; notice to registrant; cancellation of name on failure to prove right

Upon a written affidavit signed and sworn to in duplicate before and filed with the registrar or his deputy by any two bona fide registered voters of the parish, to the effect that after reasonable investigation and on information and belief certain persons are illegally registered, or have lost their right to vote in the precinct, ward, or parish in which they are registered by reason of removal or otherwise, the registrar shall immediately, or, in any event, within forty-eight hours, notify the registrants by mailing to them postage prepaid, under P.O. Form 3547—Requested, at the addresses given in the registration records, the duplicate copy of affidavit, together with a printed citation requiring them to appear in person before the registrar or his deputy within ten days from the date of the mailing of the duplicate affidavit and citation, which date shall be stated in the citation, and prove their right to remain on the registration rolls by written affidavit of three bona fide registered voters in the form

as provided in R.S. 18:132. The registrar shall immediately make a similar publication, as provided for in R.S. 18:132, and, if the challenged registrants fail, within the same delays provided in that Section, to prove their right to remain on the rolls, as in that Section provided, the registrar shall cancel their names from the registration records as provided by R.S. 18:135.

STATEMENT

On June 29, 1959, the Attorney General, acting on behalf of the United States and pursuant to the authority conferred by 42 U.S.C. 1971(c) (*supra*, pp. 3–4), filed a complaint in the United States District Court for the Eastern District of Louisiana against the Citizens Council of Washington Parish, Louisiana, four members of the Citizens Council, and respondent Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana. The complaint sought an injunction restraining the individual defendants and the Citizens Council from making racially discriminatory challenges of voters and enjoining the Registrar from giving legal effect to these challenges.[1]

On October 7, 1959, the District Court denied motions to dismiss the complaint. On November 18, 1959, a hearing was held on a motion for a preliminary injunction filed by the United States, and evi-

[1] Title 18, Section 245 of the Revised Statutes of Louisiana, *supra*, provides that any two voters of a parish may challenge the right of registrants who are believed to be illegally registered to remain on the voter rolls. The registrants thus challenged have an opportunity to contest the challenges; however, if they fail to prove their right to remain on the rolls, their names are removed therefrom.

dence was offered by all parties. On January 11, 1960, the District Court entered a decree and findings of fact and conclusions of law.

The court found (Appendix, *infra*, pp. 4a–8a) that the individual defendants had challenged approximately 1377 Negro registrants and ten white registrants; that, prior to the time of the challenges, there were 1517 Negroes and 11,444 white persons on the Washington Parish registration rolls; that the challenges were based on such defects in the voter registration cards as misspellings, deviations from printed instructions, failure to compute age with exact precision, and illegible handwriting; and that more than 50% of all white voters' registration cards contained defects similar to those which provided the bases for challenging Negro registrants. The court found further that the individual defendants had limited their examination almost exclusively to the registration records of Negro voters; that they made no examination of the registration records in wards where no Negroes were registered; that the acts of the individual defendants, as the defendant Registrar knew, were committed in order to deprive Negroes, solely because of their race or color, of the right to register and vote; and that the Negroes involved, unless they were restored to the registration rolls of Washington Parish, would be unable to vote in the April 1960 general election. The court concluded that the challenges were "massively discriminatory in purpose and effect" (Appendix, *infra*, p. 9a) and hence unconstitutional and void; and that, in giving effect to the mass challenges, the Registrar caused discrimina-

tion, in violation of the obligations imposed upon him by the Fifteenth Amendment.

The court's decree (Appendix, *infra*, pp. 1a–4a) enjoined the individual defendants and the Citizens Council from making (or causing to be made) racially discriminatory challenges. It enjoined the Registrar from giving legal effect to the challenges against the Negro registrants; from permitting their names to remain off the Washington Parish registration rolls; and from giving effect, in the future, to racially discriminatory challenges.

REASONS FOR GRANTING THE WRIT

This case, as noted by the Court in its *per curiam* order of January 26, 1960,[2] presents issues similar

[2] "The application of the United States for an order vacating the stay order of the Court of Appeals entered January 21, 1960, and reinstating the decree of the District Court, together with the request of the Attorney General of Louisiana for argument thereon, have been considered by the Court.

"1. It appears, as respondents pointed out in their application to the Court of Appeals for the stay herein, that the issues in *United States* v. *Raines*, No. 64, now pending on appeal in this Court, are pertinent to the disposition of this case. In view of this, and of the fact that the issues raised by this application are closely related to those involved on the merits of the controversy now before the Court of Appeals, the Court believes that the entire matter should be considered at one time. In light of the foregoing, and of the imminence of the State general election scheduled for April 9, 1960, the Court will entertain a petition for certiorari to review the judgment of the District Court, 28 U.S.C. §§ 1254(1), 2101(e), if filed by the Solicitor General on or before January 29, 1960. The petition may be filed in typewritten form. See the action of the Court as to *Bolling* v. *Sharpe, et al.*, 344 U.S. at 3.

"2. In the event that such a petition is so filed, the Court will hear argument upon the present application, the petition,

to those in *United States* v. *Raines*, No. 64, which was argued at the January 1960 session. In the *Raines* case, the Government instituted injunctive proceedings under the Civil Rights Act of 1957 (42 U.S.C. 1971(c)) to restrain officials from refusing, for reasons of race or color, to permit qualified Negro citizens to register to vote. The United States District Court for the Middle District of Georgia held the statute unconstitutional (172 F. Supp. 532), and the United States appealed.

The instant proceeding, which challenged the discriminatory removal of the names of Negro citizens from voting rolls, was similarly instituted against a state official (and others acting under the aegis of state law) under the authority conferred by Section 1971(c). And here, as in *Raines*, it is the contention of the state official that the Civil Rights Act of 1957 is unconstitutional. Respondent also contends, in the instant case, that the District Court's decree conflicts with various provisions of Louisiana law [3]—a conten-

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and the merits; on February 23, 1960, the case to be set at the head of the calendar for that day. See *Hannah* v. *Larche*, No. 549; *Hannah* v. *Slawson*, No. 550, 361 U.S. ——, December 7, 1959.

"3. The record, which may be filed in typewritten form, and the Government's brief on all matters will be filed on or before February 10, 1960, and the answering briefs of the respondents will be filed on or before February 20, 1960. The Government may file a reply brief on or before February 22, 1960.

It is so ordered."

[3] See respondent's motion to stay order of injunction filed in the Court of Appeals and attached as Exhibit E to the Government's application in this Court to vacate the stay issued by the Court of Appeals.

tion which is closely related to the issue of the power of Congress to implement the provisions of the Fifteenth Amendment by the procedures authorized in the Civil Rights Act of 1957.

This Court has noted the imminence of the Louisiana general election scheduled for April 19, 1960, and it has commented upon the desirability of considering "at one time" the issues posed by the instant litigation and by the *Raines* case. The United States concurs in the view that such a disposition is highly desirable and that this case is accordingly one in which it would be appropriate to exercise certiorari jurisdiction before judgment in the Court of Appeals.[4]

CONCLUSION

It is respectfully submitted that this petition for a writ of certiorari before judgment should be granted.

J. LEE RANKIN,
Solicitor General.

JANUARY 1960.

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[4] Cf. *White* v. *Mechanics Securities Corp.*, 269 U.S. 283, 299; *Graham & Foster* v. *Goodcell*, 282 U.S. 409, 411–412, 415, note 2; *United States* v. *Bankers Trust Co.*, 294 U.S. 240, 243; *Porter* v. *Dicken*, 328 U.S. 252; *Brown* v. *Board of Education*, 344 U.S. 1, 3; *Reid* v. *Covert*, 354 U.S. 1, 5; *Wilson* v. *Bohlender*, No. 37, this Term, decided January 18, 1960, slip op., p. 2, certiorari granted, 359 U.S. 906.

APPENDIX

In the United States District Court for the Eastern District of Louisiana, New Orleans Division

Civil Action No. 9146

UNITED STATES OF AMERICA, PLAINTIFF

v.

DIAZ D. MCELVEEN, E. RAY MCELVEEN, SAXON FARMER, AND EUGENE FARMER, INDIVIDUALLY AND AS MEMBERS OF THE CITIZENS COUNCIL OF WASHINGTON PARISH, LOUISIANA; CURTIS M. THOMAS, REGISTRAR OF VOTERS OF WASHINGTON PARISH, LOUISIANA, AND THE CITIZENS COUNCIL OF WASHINGTON PARISH, LOUISIANA, DEFENDANTS

DECREE

Pursuant to the Findings of Fact and Conclusions of Law, entered this date, it is ordered, adjudged and decreed that, pending further order of this Court:

1. Diaz D. McElveen, E. Ray McElveen, Saxon Farmer, and Eugene Farmer, individually and as members of the Citizens Council of Washington Parish, Louisiana, together with their agents and any persons acting in concert with them who have actual notice of this decree, are hereby enjoined from causing or initiating challenges or filing any affidavits of challenge which have as their purpose or effect discrimination based on race or color against registrants of Washington Parish, Louisiana, and from further engaging in any other acts and practices which would

interfere with the rights of any citizens of the United States to vote at any election without distinction of race or color.

2. The Citizens Council of Washington Parish, Louisiana, its officers, members, agents, and any persons acting in concert with it who have actual notice of this decree, is hereby enjoined from causing or in any way participating in the filing of affidavits of challenge which have as their purpose or effect discrimination based on race or color against registrants of Washington Parish, Louisiana, and from further engaging in any other acts and practices which would interfere with the rights of any citizens of the United States to vote at any election without distinction of race or color.

3. Curtis M. Thomas, individually and as Registrar of Voters of Washington Parish, Louisiana, his deputies and agents, and the successors of each, are hereby enjoined as follows:

(*a*) From giving any legal effect whatsoever to the approximately 1,377 challenges filed in the office of Registrar of Voters of Washington Parish, Louisiana against Negro registrants of that parish by the four individuals named in paragraph 1 of this decree during the period February 1, 1959, to June 16, 1959, both inclusive, or from giving any legal effect to any prior proceedings or orders based directly or indirectly upon such challenges.

(*b*) From permitting the names of any of the approximately 1,377 persons challenged as set out in paragraph 3(*a*) of this decree, to remain off the present and current rolls of qualified voters of Washington Parish, Louisiana, or from a legal supplement thereto, longer than ten days from the date of this decree. It is the intent and purpose of this paragraph that the persons enjoined shall do whatever is necessary to be done to reinstate within ten days from the

date of this decree upon the current rolls of qualified voters in Washington Parish and upon all official copies thereof, the names of all of the said approximately 1,377 persons.

(*c*) From acting upon or giving effect to any challenges of registrants in Washington Parish, Louisiana which might hereafter be filed in his office which have as their purpose or effect discrimination based upon race or color.

4. In effectuation of this decree, Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana, is further ordered to file with the Clerk of this Court within ten days from the date hereof, a detailed report in writing of his full compliance with the provisions of paragraph 3(*b*) of this decree.

5. In further effectuation of this decree, Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana, together with his successors, is further ordered to keep and maintain, from and after February 1, 1960, a tabulation showing the number of registrants of each race whose right to remain on the registration rolls of Washington Parish is challenged. If at the end of any three-month period thereafter, more than 5% of the registrants of any one race shall have been challenged, he shall within ten days thereafter submit to this Court a detailed report in writing concerning such challenges, giving the bases thereof and indicating whether the same or similar bases of challenges appear in the records of other registrants.

6. In further effectuation of this decree, the parties to this cause may at any time apply to this Court for an order for the inspection of, and photographing of, any or all records in the office of the Registrar of Voters of Washington Parish, Louisiana.

This Court retains jurisdiction of this cause of the purpose of issuing any and all additional orders herein as may, in its judgment, become necessary for the

purpose of modifying the same if, in its judgment, modification becomes necessary, and for the purpose of enforcing the same.

New Orleans, Louisiana, this 11th day of January, 1960

J. SKELLY WRIGHT, *Judge*.

[Caption omitted]

FINDINGS OF FACT AND CONCLUSIONS OF LAW

WRIGHT, *District Judge*:

In the spring of 1959 the Citizens Council, professing a purpose to purge the registration rolls of Washington Parish, Louisiana, of all persons illegally registered, succeeded in disenfranchising 85% of Negro voters of the Parish and 0.07% of the white. The United States in this action charges that this profession of high purpose was a fraud designed to deny Negro citizens of a right to vote. Made defendants and charged with conspiring with the Citizens' Council are several members of the Council and the Registrar of Voters for Washington Parish.

In a prior action this court denied the defendants' motion to dismiss. *United States* v. *McElveen*, 177 F. Supp. 355. Here the United States has moved for a temporary injunction. Based on the evidence offered by all parties in connection with this motion, this Court now makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Individual Defendants Diaz D. McElveen, E. Ray McElveen, Saxon Farmer, and Eugene Farmer are, and at all times material hereto were, registered voters of Washington Parish, Louisiana, and during

the period from November 1, 1958 through July 1, 1959 were members of the Defendant Citizens Council.

2. Defendant Registrar Curtis M. Thomas is, and has been since September 1949, the Registrar of Voters of Washington Parish, Louisiana, with his office in Franklinton, Louisiana.

3. Defendant Citizens Council of Washington Parish, Louisiana, is and at all times material hereto was, a nonprofit corporation incorporated under the laws of the State of Louisiana and domiciled in Washington Parish Louisiana. One of its purposes is to maintain racial segregation in said parish.

4. Registration is a prerequisite under state law to voting in any election in the State of Louisiana, and may be either permanent or periodic. Washington Parish, Louisiana became a permanent registration parish in May of 1958 and a registered voter of this parish is not required to reregister unless his name is cancelled from the registration rolls in accordance with law.

5. The Defendant Registrar in his official capacity as Registrar of Washington Parish was and is responsible, among other things, for registering of qualified applicants for registration, for keeping and preserving of registration records, and for cancelling from the registration rolls the names of all voters who lose their right to remain on the rolls.

6. Each registered voter of Washington Parish has a registration card, Form of Application for Registration, which, except in the cases of illiterates and the physically disabled, is entirely filled out by the registrant and sworn to before the Defendant Registrar. The registration cards of current registrants are maintained in the office of the Registrar of Voters, and are filed in alphabetical order by precincts within the nine wards that comprise Washington Parish.

7. Acting under the authority of the laws of Louisiana, and more particularly Section 245, Title 18 Louisiana Revised Statutes of 1950, the Individual Defendants, commencing in February 1959 and ending in June 1959, filed in the office of the Defendant Registrar affidavits challenging the right of approximately 1,377 Negroes and approximately 10 white persons to remain on the registration rolls as qualified voters.

8. In filing the aforesaid challenges the Individual Defendants used the facilities of the office of the Defendant Registrar, the official records kept therein, and the Forms of Affidavit of Challenge provided for by the laws of Louisiana.

9. The Defendant Registrar, acting under the authority of Title 18 Section 245 of the Louisiana Revised Statutes of 1950, issued and caused to be issued to the persons challenged, Citations of Notice to Erase requiring them to appear at the office of the Defendant Registrar and prove by written affidavit of three bona fide registered voters their right to remain on the registration rolls.

10. Following and as a result of the challenges made by the Individual Defendants, the names of the persons challenged were removed from the registration rolls of Washington Parish. The number so removed was approximately 98% of the total that was removed from the rolls of Washington Parish during the period November 1, 1958 through July 1, 1959.

11. On November 30, 1958 there were 11,444 white persons and 1,517 Negroes registered to vote in Washington Parish, Louisiana. On June 30, 1959 there were 12,228 white persons and 236 Negroes registered to vote there. The decline in the number of registered Negro voters in Washington Parish between the dates November 4, 1958 and June 16, 1959 was a direct result of the filing in the office of the Regis-

trar of Affidavits of Challenge by the Individual Defendants.

12. The Affidavits of Challenge filed by the Individual Defendants purported to be based on defects or deficiencies in the registration cards such as misspellings, deviations from printed instructions, failure to compute age with exact precision, and illegible handwriting.

13. The same defects and deficiencies are to be found in at least half of the registration cards of the white citizens of Washington Parish currently on the registration rolls. Analysis of a random sampling of 200 cards, 198 of which were of white persons, revealed that over 60% had such defects and inconsistencies, and the Defendant Registrar, who has worked with all registration cards since 1949, testified that at least 50% had such errors and omissions.

14. In examining the Washington Parish registration records for the purpose of filing the said Affidavits of Challenge, the Individual Defendants limited their examination almost exclusively to the registration records of Negro voters while making only a token examination of the registration records of white voters. The Individual Defendants made no examination of the registration records pertaining to those wards in which no Negroes were registered and they challenged no voters in those wards.

15. The acts and practices of the Individual Defendants, as described, were committed and engaged in for the purpose and with the effect of depriving Negroes, solely because of their race or color, of the right to register and vote.

16. Based upon his knowledge that (*a*) the Individual Defendants virtually confined their examination of the registration records to those of Negro voters, (*b*) the challenges were directed almost entirely to Negroes and not white persons, and (*c*) the

Individual Defendants filed Affidavits of Challenge involving defects and deficiencies which he knew also appeared in the records of white persons, against whom Affidavits of Challenge were not filed, the Defendant Registrar was well aware of the racially discriminatory character of the challenges of the Individual Defendants.

17. Defendant Citizens Council at all times pertinent to this action approved and endorsed the aforesaid acts and practices of the Individual Defendants, all of whom were members of the Defendant Citizens Council.

18. But for the acts and practices of the Individual Defendants in filing the Affidavits of Challenge as described and the action of the Defendant Registrar in giving effect to such challenges, the approximately 1,377 Negroes previously registered to vote and removed from the registration rolls would be presently registered to vote.

19. Unless restored to the registration rolls of Washington Parish the approximately 1,377 Negroes previously registered to vote will be unable to vote in the General Election to be held April 19, 1960.

CONCLUSIONS OF LAW

1. This court has jurisdiction of this action. 28 U.S.C. 1345; 42 U.S.C. 1971(d).

2. The Individual Defendants, in challenging the registration status of voters, were acting under color of the laws of Louisiana. Providing for and supervising the electoral process is a state function. *Terry v. Adams*, 345 U.S. 461. The Individual Defendants participated in this state function under express authority of Louisiana law, using state facilities made available to them. L.R.S. 18:245. Their actions formed the basis of the removal of citizens from the registration rolls by the Defendant Registrar acting

in his official capacity. See *Shelley* v. *Kraemer*, 334 U.S. 1, 20.

3. The challenges by the Individual Defendants, endorsed and supported by the Defendant Citizens Council of Washington Parish, of which they were and are members, although not patently discriminatory on the face of each, were actually massively discriminatory in purpose and effect, and as such unconstitutional. U.S. Constitution, 15th Amend.; 42 U.S.C. 1971(a). The result of the challenges was to remove almost all of the Negro voters from the rolls and leave the white voters practically untouched, even though over 50% of the white registration cards have the same defects and deficiencies as did the challenged Negro cards. A court need not, and should not, shut its mind to what all others can see and understand. *Child Labor Tax Case*, 259 U.S. 20, 37. Discriminatory application of a statute, even one unobjectionable on its face, is unconstitutional. *Yick Wo* v. *Hopkins*, 118 U.S. 356; *Lane* v. *Wilson*, 307 U.S. 268.

4. The action of the Defendant Registrar in giving effect to the mass challenges of the Individual Defendants achieved a discriminatory result in violation of his duties under the 15th Amendment. Whether or not he had the racially discriminatory purpose which motivated the action of the Individual Defendants and the Defendant Citizens Council is irrelevant as a matter of law. *Avery* v. *Georgia*, 345 U.S. 559.

5. The challenges, having been made in violation of the 15th Amendment and 42 U.S.C. 1971(a), were and are themselves null, void and ineffective for any purpose, and the voters taken off the registration rolls as a result of these challenges were accordingly illegally removed. *Thornton* v. *Martin*, 1 Race Relations Law Reporter 213 (1956). It is of no bearing that some or all of the defects and deficiencies set out

as basis for the challenges may in fact exist, and if nondiscriminatorily cited, could constitute legal grounds for removal of voters from the rolls as indicated in *Thomas* v. *McElveen*, et al., Civil Docket No. 18,751, 22 Judicial District Court, Parish of Washington, Louisiana. This is not a matter of a failure or inability to show a common injury. Compare *Reddix* v. *Lucky*, 252 F. 2d 930. Here the common injury, which is the fatal defect of each challenge, is a shared discrimination in the application of the law. *Frasier* v. *Board of Trustees*, 134 F. Supp. 589, aff'd. per curiam 350 U.S. 979.

6. Plaintiff, the United States of America, has an interest and obligation broader than that of any other individual litigant, which should be taken into account in giving effect to the broad remedial purposes of the Civil Rights Act of 1957. This is not a case as between private parties and should not be so construed. *Georgia* v. *Tennessee Copper Co.*, 206 U.S. 230, 237. Courts of equity may, and frequently do, go much further both to give and to withhold relief in furtherance of the public interest than they are accustomed to go where only private interests are concerned. *Virginian Railway Co.* v. *System Federation No. 40*, 300 U.S. 515, 552.

7. The principle of the exhaustion of administrative remedies has no application to this case, since the qualifications of the persons challenged are not here at issue. The discrimination involved lies in part in the very act of subjecting the Negroes to the process of resorting to administrative remedies which are not required of white voters similarly situated. To require exhaustion of administrative remedies would make this court a party to the discrimination claimed. *Shelley* v. *Kraemer*, 334 U.S. 1. In any event, the law itself expressly dispenses with the requirement of the exhaustion of administrative remedies. 42 U.S.C.

1971(d). And where a person "has been illegally removed from the voters' list his remedy lies in having the illegal action rescinded, not in re-registering." *Reddix v. Lucky*, 252 F. 2d 930, 937.

8. This court has jurisdiction to issue an appropriate injunction in this case. 42 U.S.C. 1971(c).

Judgment for plaintiff.

J. SKELLY WRIGHT, *Judge.*

[Caption omitted]

OPINION DENYING MOTIONS TO DISMISS

WRIGHT, *District Judge:*

In the spring of 1959 the Citizens' Council, professing a purpose to purge the registration rolls of Washington Parish, Louisiana, of all persons illegally registered, succeeded in disenfranchising 85% of the Negro voters of the Parish and 0.07% of the white. The United States in this action charges that this profession of high purpose was a fraud designed to deny Negro citizens of a right to vote. Made defendants and charged with conspiring with the Citizens' Council are several members of the Council and the Registrar of Voters for Washington Parish.

The defendants have moved to dismiss, alleging the unconstitutionality of certain sections[1] of the Civil

[1] 42 U.S.C. § 1971 (a) and (c). These provisions read as follows:

"(a) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or

Rights Act of 1957 under which the United States is proceeding. They admit that under the Fifteenth Amendment, Congress may authorize the United States to seek injunctive relief to protect citizens against state action denying their right to vote because of race. They contend, however, that Section 1971(c) is unconstitutional in that it may be interpreted as authorizing such action against private individuals as well as persons acting under color of law.

The complaint here specifically charges that the defendants, acting under color of state law, have deprived certain named citizens of their right to vote because of their race. The motion to dismiss, of course, admits the truth of these allegations. There is, therefore, no contention that legislation covering the facts of this case would be invalid. The position of defendants simply is that because Section 1971 (c) may be more broadly interpreted, it is unconstitutional.[2]

Territory, or by or under its authority, to the contrary notwithstanding."

"(c) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person."

[2] The defendant Registrar of Voters makes the additional contention that the function he performed in disenfranchising the voters was purely ministerial and was required by state statutes. The complaint, however, specifically charges that he knowingly participated in the discrimination. Moreover, the Registrar is an indispensable party to the granting of the relief. See *Williams* v. *Fanning*, 332 U.S. 490.

The defendants' contention is so obviously without merit that this Court would merely deny the motion to dismiss without more were it not for the fact that a district court has upheld a similar contention and declared Section 1971(c) unconstitutional.[3] In so doing, that Court ignored the most elementary principles of statutory construction, as repeatedly announced by the Supreme Court, and relied on an old case[4] interpreting a criminal statute.

It is true that the various civil rights acts have been the subject of much confused litigation. Out of this confusion, however, have emerged two propositions, both of which have now won general acceptance. The first of these is that the Congress may, without reference to the Fifteenth Amendment, pass any legislation reasonably designed to protect citizens in the exercise of any right guaranteed by the Constitution.[5] The right to participate in the election of federal officers is so guaranteed.[6] Article I, Section 4, of the Constitution specifically authorizes Congress to regulate the manner of holding elections for federal office. Article I, Section 8, Clause 18, states that Congress is given authority "to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers." Under this authority, presumably Congess may also control the registration, but not the qualification,[7] of voters in federal elections, since such authority would certainly be reasonably necessary to insure their proper conduct.

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[3] *United States v. Raines*, M.D. Ga., 172 F. Supp. 552.

[4] *United States v. Reese*, 92 U.S. 214.

[5] *United States v. Williams*, 341 U.S. 70; *United States v. Classic*, 313 U.S. 299; *Logan v. United States*, 144 U.S. 263; *Ex Parte Yarbrough*, 110 U.S. 651.

[6] See, Note 5.

[7] The qualification of voters in federal elections is prescribed by Article I, Section 2 of the Constitution.

The second proposition relates to the power of Congress to control all elections for state or federal office. With reference to such elections, the Fifteenth Amendment imposes on Congress the duty to protect citizens from being denied their right to vote "by the United States or by any State on account of race, color, or previous condition of servitude." To be appropriate under the Fifteenth Amendment, legislation must be directed against persons acting under color of law, state or federal, and it must relate to the denial, by such persons, of citizens' right to vote because of race. Any congressional action which does not contain these two elements cannot be supported by the Fifteenth Amendment.[8]

It is admitted by the United States that the sections of the Act in suit, since they specifically apply to all elections, are predicated on the Fifteenth Amendment. The United States contends that these sections must be read together, and when so read, apply only to persons acting under color of law. The United States also maintains that, conceding these sections may be construed more broadly so as to cover hypothetical cases involving actions against private individuals, since the defendants in the suit are within the legitimate reach of the legislation, the extended interpretation thereof with reference to persons not before the court is unnecessary. Certainly, the Government contends, no court should reach out for these imaginary persons, and, in effect, bring them into this litigation in order to declare the Act unconstitutional.

It is true that Sections 1971 (a) and (c), in outlining their area of operation, do not use the talismanic phrase "under color of law." By reading Sections 1971 (a), (b), and (c), however, the legisla-

[8] *Terry* v. *Adams*, 345 U.S. 461; *Smith* v. *Allwright*, 321 U.S. 649; *James* v. *Bowman*, 190 U.S. 127.

tive purpose and intent become obvious. Section 1971(a) applies to all elections and to all persons acting under color of law. The last clause in the section makes this clear.[9] Section 1971(b) relates only to federal elections and is not limited to persons acting under state law. Section 1971(c) authorizes the United States to seek injunctive relief where there has been a violation of either (a) or (b). Even if one had difficulty literally reading into Section 1971(a) the limitation to persons acting under color of law, any doubt respecting the intent of Congress can be resolved by reference to the prior jurisprudence outlining the permissible reach of the Fifteenth Amendment and restricting it specifically to persons acting under color of law.[10] No court is authorized to assume that Congress, in enacting this legislation, was ignorant of the uniform jurisprudence of the Supreme Court on the subject.[11] In fact, it is a cardinal rule of statutory construction that such jurisprudence may serve as a guide to interpretation.[12]

There are other elementary rules of statutory construction which may be consulted if one were in doubt as to the meaning of the Act. The first of these is that the constitutionality of an act will not be determined unless it is absolutely necessary to the decision

[9] The last clause reads:

"* * * any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding."

[10] See Note 8.

[11] The legislative history of the Act shows that Congress was aware of this jurisprudence and sought to draft legislation to meet its constitutional requirements. See Notes 17, 18, 19, and 20.

[12] *Shapiro* v. *United States*, 335 U.S. 1, 16; *Hecht* v. *Malley*, 265 U.S. 144, 153. See also *Missouri* v. *Ross*, 299 U.S. 72, 75; *Sessions* v. *Romadka*, 145 U.S. 29, 42.

of the case.[14] From this primary principle have evolved two rules of construction, both of which apply here: (1) the constitutionality of statutes will not be tested in the abstract without reference to the facts of the case at hand,[15] and (2) litigants may challenge the constitutionality of a statute only in so far as it affects them.[16]

Here we have defendants, all admittedly acting under color of state law, charged with denying citi-

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[14] See *United States v. International Union United Automobile, Aircraft and Agricultural Implement Workers of America*, 352 U.S. 567, at p. 590:

"The impressive lesson of history confirms the wisdom of the repeated enunciation, the variously expressed admonition, of self-imposed inhibition against passing on the validity of an Act of Congress 'unless absolutely necessary to a decision of the case.' *Burton v. United States*, 196 U.S. 283, 295."

See also cases collected in *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, at p. 345.

[15] See also *Yazoo and Mississippi Valley R. Co. v. Jackson Vinegar Co.*, 226 U.S. 217, at p. 219:

"* * * Of course, the argument to sustain the contention is that, if the statute embraces cases such as are supposed, it is void as to them, and, if so void, is void *in toto*. But this court must deal with the case in hand and not with imaginary ones. It suffices, therefore, to hold that, as applied to cases like the present, the statute is valid. * * *"

See *Liverpool, New York and Philadelphia Steamship Co. v. Commissioners of Emigration*, 113 U.S. 33, at p. 39:

"* * * It (the Court) has no jurisdiction to pronounce any statute, either of a State or of the United States, void, because irreconcilable with the Constitution, except as it is called upon to adjudge the legal rights of litigants in actual controversies. * * *"

[16] See *Fleming v. Rhodes*, 331 U.S. 100, at p. 104:

"* * * Litigants may challenge the constitutionality of a statute only in so far as it affects them. * * *"

See also *United States v. Wurzbach*, 280 U.S. 396, at p. 399:

"It is argued at some length that the statute, if extended beyond the political purposes under the control of Congress, is too vague to be valid. The objection to uncertainty con-

zens their right to vote because of their race. Unquestionably, to the extent it affects them, the Act is appropriate under the Fifteenth Amendment. There can be no question but that they are covered by its terms. In fact, they admit it. Their point is that the legislation may be interpreted as covering others not before the Court, individuals not acting under color of law. This Court has no right to consider these imaginary persons in the hypothetical situations conjured up by the defendants in determining whether or not the Act may be constitutionally applied to the facts of this case and to the defendants before this Court. The duty of this Court is to strain, if necessary, to save the Act, not to destroy it.[16]

The legislative history of this legislation shows that Congress was aware of the widespread attempt to

---

cerning the persons embraced need not trouble us now. There is no doubt that the words include representatives, and if there is any difficulty, which we are far from intimating, it will be time enough to consider it when raised by someone whom it concerns. * * *"

See also *Heald* v. *District of Columbia*, 259 U.S. 114, at p. 123:

"* * * It has been repeatedly held that one who would strike down a state statute as violative of the Federal Constitution must show that he is within the class of persons with respect to whom the act is unconstitutional and that the alleged unconstitutional feature injures him. In no case has it been held that a different rule applies where the statute assailed is an act of Congress; nor has any good reason been suggested why it should be so held. * * *."

See also *Rescue Army* v. *Municipal Court of Los Angeles*, 331 U.S. 549; *Virginian R. Co.* v. *System Federation No. 40*, 300 U.S. 515; *Jeffrey Manufacturing Co.* v. *Blagg*, 235 U.S. 571.

[16] See *Screws* v. *United States*, 325 U.S. 91, at p. 100:

"* * * Only if no construction can save the Act from this claim of unconstitutionality are we willing to reach that result. * * *"

disenfranchise the Negro, overtly through statutory enactments, and covertly through discriminatory administration of voting laws. Congress was also aware that disenfranchisement can be accomplished only with the cooperation of persons acting under color of state law since registration rolls are in the custody and under the control of state officers. Reference to the hearings,[17] the Committee reports[18] and the floor debate[19] on the legislation all demonstrate this awareness. This legislative history also shows beyond question that Congress was cognizant of its constitutional limitations and deliberately sought to enact legislation within those limits.[20] To say that Congress failed in this endeavor is to misread the language of the Act and to defile its great purpose.

In a democratic society there is no greater offense than illegally depriving a citizen of his right to vote. Such discrimination strikes at the very foundation of constitutional government. This offense is compounded when, as alleged here, it is committed under the guise of enforcing the law. The United States has made the solemn charge that these defendants have committed such an offense. Instead of challenging the constitutionality of the Civil Rights Act of 1957, these defendants should be searching their

[17] Hearings before Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, 85th Cong., 1st Session; Hearings before Subcommittee No. 5 of the House Committee on the Judiciary, 85th Cong., 1st Session. Hearings before Committee on Rules, House of Representatives, 85th Cong., 1st Session, on H.R. 6127 at p. 44.

[18] House Report No. 291, 85th Cong., 1st Session; Report to Accompany S. 83, 85th Cong., 1st Session, Subcommittee Print.

[19] 103 Cong. Rec. 12150, 12565, 12829, 13138, 13876, 13324, 13333, 13319, 13322, 12149, 13120, 13126, 8498, 9396, 12805, 12900, 13006, 13732, 13320.

[20] In addition to Notes 17, 18, 19, see 103 Cong. Rec. 13834, 13159.

souls to see if this charge is well founded. This Court will make that determination after it hears all the evidence.

The motions to dismiss are denied.

NEW ORLEANS, LOUISIANA, *October 7, 1959.*

U.S. GOVERNMENT PRINTING OFFICE: 1960

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FILE COPY

No. 667

In the Supreme Court of the United States

October Term, 1959

UNITED STATES, PETITIONER

v.

CURTIS M. THOMAS, REGISTRAR OF VOTERS OF WASHINGTON PARISH, LOUISIANA, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE UNITED STATES

J. LEE RANKIN,
Solicitor General,
JOSEPH M. F. RYAN, JR.,
Acting Assistant Attorney General,
HENRY PUTZEL, JR.,
DAVID L. RUBMAN,
J. HAROLD FLANNERY, JR.,
Attorneys,
Department of Justice, Washington 25, D.C.

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In the Supreme Court of the United States

OCTOBER TERM, 1959

No. 667

UNITED STATES OF AMERICA, PETITIONER

v.

CURTIS M. THOMAS, REGISTRAR OF VOTERS OF WASHINGTON PARISH, LOUISIANA, ET AL.[1]

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE UNITED STATES

OPINIONS BELOW

The decree (Pet. 1a) and the findings of fact and conclusions of law (Pet. 4a) entered by the United States District Court for the Eastern District of Louisiana on January 11, 1960, are not reported. The District Court's opinion of October 7, 1959, denying motions to dismiss the complaint (Pet. 11a), is reported at 177 F. Supp. 355.

[1] The complaint filed by the United States named a total of six defendants. Only one defendant, Thomas, has thus far appealed and, precisely speaking, he is the only respondent before the Court at this time.

JURISDICTION

The decree of the District Court granting a preliminary injunction was entered on January 11, 1960. (Pet. 4a). Notice of appeal to the Court of Appeals for the Fifth Circuit was filed by respondent Thomas on January 15, 1960, and the record on appeal was docketed in that court on January 27, 1960 (Pet. 2). On January 21, 1960, the Court of Appeals granted a stay, pending appeal, of the injunction issued by the District Court. On January 22, 1960, the United States applied to this Court to vacate the stay order of the Court of Appeals. On January 26, 1960, this Court entered an order stating that it would entertain a petition for certiorari to review the judgment of the District Court if filed by the Solicitor General on or before January 29, 1960. On the latter date, the petition for certiorari was filed. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1) and 2101(e).

STATUTES INVOLVED

42 U.S.C. 1971 (R.S. 2004, as amended by the Civil Rights Act of 1957, 71 Stat. 637) provides in pertinent part that:

> (a) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of

any State or Territory, or by or under its authority, to the contrary notwithstanding.

(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

(c) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

* * * * *

Title 18, Louisiana Revised Statutes, 1950, provides:

§ 245. Illegal registration or loss of right to vote: notice to registrant; cancellation of name on failure to prove right

Upon a written affidavit signed and sworn to in duplicate before and filed with the registrar or his deputy by any two bona fide registered voters of the parish, to the effect that after reasonable investigation and on information and belief certain persons are illegally registered, or have lost their right to vote in the precinct, ward, or parish in which they are registered by reason of removal or otherwise, the registrar shall immediately, or, in any event, within forty-eight hours, notify the registrants by mailing to them postage prepaid, under P.O. Form 3547—Requested, at the addresses given in the registration records, the duplicate copy of affidavit, together with a printed citation requiring them to appear in person before the registrar or his deputy within ten days from the date of the mailing of the duplicate affidavit and citation, which date shall be stated in the citation, and prove their right to remain on the registration rolls by written affidavit of three bona fide registered voters in the form as provided in R.S. 18:132. The registrar shall immediately make a similar publication, as provided for in R.S. 18:132, and if the challenged registrants fail, within the same delays provided in that Section, to prove their right to remain on the rolls, as in that Section provided, the registrar shall cancel their names from the registration records as provided by R.S. 18:135.

QUESTIONS PRESENTED[2]

1. Whether the Civil Rights Act of 1957 (42 U.S.C. 1971 (a), (c)), as here applied, is constitutional.

[2] The United States was the successful party in the District Court, and of course did not appeal. Respondent Thomas, the

2. Whether, in the circumstances found by the District Court, the relief provided in the decree was authorized and appropriate.

STATEMENT

On June 29, 1959, the Attorney General, acting on behalf of the United States and under the authority granted by the Civil Rights Act of 1957 (42 U.S.C. 1971(c)), filed an action in the United States District Court for the Eastern District of Louisiana. The defendants named in the complaint were the Citizens Council of Washington Parish, Louisiana (the "Citizens Council"); four members of the Citizens Council (the "individual defendants"); and Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana (the "Registrar"). The complaint alleged that certain specified discriminatory acts of these defendants had resulted in the removal from the registration rolls of Washington Parish, Louisiana, of large numbers of Negro citizens who had previously been registered and entitled to vote.

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only defendant who has thus far noted an appeal, has not filed a statement of points on which he intends to rely on the appeal (see Rule 75(d), Federal Rules of Civil Procedure). Accordingly, the questions stated in the petition for certiorari filed by the United States are those which, in our view, the record presents for consideration on appellate review. Since respondent, the moving party on the appeal, might have formulated the questions presented differently had the petition for certiorari been filed by him, we suggest that, in view of the unusual circumstances, the Court may properly give a liberal interpretation here to the rule limiting review to "Only the questions set forth in the petition or fairly comprised therein * * *." (Rule 23(c) of the Rules of this Court.)

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The findings and conclusions of the District Court (Pet. 4a–11a) may be summarized as follows:

Under R.S. 18:245 (1950) of the Louisiana Statutes (*supra*, pp. 3–4) any two registered voters of the parish may file affidavits of challenge with a Registrar of Voters stating their belief that certain persons are illegally registered or have lost their right to vote. The Registrar is required to notify the registrant thus challenged, who must then prove by affidavit of three registered voters his right to remain on the registration rolls. If the challenged registrant fails to prove his right to remain on the rolls, his name is cancelled on the rolls.

The individual defendants, who are registered voters of Washington Parish, availed themselves of these provisions of the state statutes. Following the usual procedure, they examined the Washington Parish registration records at the office of the Registrar with a view toward challenging the voting registration status of registrants. They confined their examination of registration records almost exclusively to the records of Negro voters, making only a token examination of the records of white voters and making no examination whatever of records in those wards where only white voters were registered. Under Louisiana law the color of the registrant is disclosed on the registration card.[3] The individual defendants then issued challenges against the Negro registrants, basing the challenges on deficiencies such as misspellings, failure

[3] La. R.S. 18:32 (1950.) See *infra*, p. 38, n. 30.

to compute age with exact precision, and illegible handwriting. (Pet. 6a–7a.) [4]

These acts and practices of the individual defendants, all of whom were members of the Citizens Council, were approved and endorsed by the Council, an organization whose avowed purpose is to maintain racial segregation. Although the individual defendants challenged only 10 white registrants, analysis of a random sampling reveals that over 60% [5] of the registration cards, all but two of which were of white registrants, contained deficiencies of the same type as those for which the Negroes were challenged. Some of the Negroes thus challenged responded with counter-affidavits in the form prescribed by statute.[6] These forms were subsequently held to be improper as not being responsive to the grounds which formed the bases of the challenges.[7]

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[4] Examples of registration cards and affidavits of challenge, which are included in the record, are reprinted at pp. 42a–42b of Appendix A, *infra*.

[5] Following an order of the District Court, 200 registration cards of current registrants were selected at random from those on file in the Registrar's office and photographed. All but two of these cards related to white registrants. The photographs of the 200 cards are part of the record on file with this Court. An analysis showing that more than 60% of the white persons' registration cards had deficiencies like those for which the Negroes were challenged appears in Appendix A, *infra*, pp. 43–44.

The Registrar, who testified that he was familiar with the great bulk of the registration cards and used them every day and that he had been Registrar since September 1949, stated that about half of all cards contained errors and omissions like those for which the Negroes were challenged.

[6] La. R.S. 18:132 (1950).

[7] See note 8, p. 9, *infra*.

The challenging action of the individual defendants resulted in the removal by the Registrar of the names of approximately 1,377 Negroes. But for the acts and practices of the individual defendants in filing the affidavits of challenge and the action of the defendant Registrar in giving effect to such challenges, these 1,377 Negroes would be presently registered to vote; and unless restored to the registration rolls of the Parish, these Negroes will be unable to vote in the State general election to be held April 19, 1960. (Pet. 8a.)

The acts and practices of the individual defendants, as described above, were expressly found by the District Court to have been committed and engaged in for the purpose and with the effect of depriving Negroes, solely because of their race or color, of the right to register and vote. As to the responsibility of the Registrar, the District Court found:

> Based upon his knowledge that (*a*) the Individual Defendants virtually confined their examination of the registration records to those of Negro voters, (*b*) the challenges were directed almost entirely to Negroes and not white persons, and (*c*) the Individual Defendants filed Affidavits of Challenge involving defects and deficiencies which he knew also appeared in the records of white persons, against whom Affidavits of Challenge were not filed, the Defendant Registrar was well aware of the racially discriminatory character of the challenges of the Individual Defendants. [Pet. 7a–8a.]

On November 30, 1958, there were 11,444 white persons and 1,517 Negroes registered to vote in Washington Parish. The challenging action of the individual defendants occurred principally between February 1959 and June 1959. By June 30, 1959, the number of white registrants was 12,228 and the number of

In the month after the individual defendants began making the challenges involved in this case, the Registrar brought a suit in a Louisiana state court against two of the individual defendants herein. The suit was for a declaratory judgment and injunctive relief. The Registrar contended that the voters were being challenged for minor errors which did not constitute a legal basis for removal from the rolls and raised the question whether the counter-affidavits used by those challenged were correct. He charged that the defendants' actions created a nuisance and interfered with the normal operation of his office. He also asked for a declaratory judgment including whether the actions required of him under Louisiana law conflicted with his obligations under an outstanding federal court injunction. (See *Dean* v. *Thomas*, 93 F. Supp. 129 (E.D. La.).) The court held that the grounds of challenge were proper and that the form of counter-affidavit provided by state law, relating as it did to the issue of residence only, was not responsive to the completely different issues (misspellings, etc.) involved in the challenges. Under the circumstances, the local court held that the only recourse of those challenged was to re-register, and ordered the Registrar to remove those challenged from the rolls.

The court held, further, that the evidence had not shown that color had anything to do with the challenges and that hence the Registrar would not be violating the federal court injunction. The court did refer to the possibility that the individual defendants might have made the challenges for racially discriminatory purposes but concluded that, since the Registrar's duties were merely ministerial, he was obliged to honor the challenges regardless of the possible motives of the challengers. *Thomas* v. *McElveen*, Civil Docket No. 18,751, 22 Judicial District Court, Parish of Washington, Louisiana, April 6, 1959 (not reported). The opinion is set forth in the Record at pp. 65-74.

Negro registrants was 236. The decline in the number of Negro registrants was a direct result of the challenges which had been filed by the individual defendants. (Pet. 6a–7a.)

The District Court concluded that the individual defendants, in challenging the registration status of voters, were acting under color of the laws of Louisiana; that they participated in the state electoral function under express authority of Louisiana law, using state facilities made available to them; and that their actions formed the basis of the removal of citizens from the registration rolls by the defendant Registrar acting in his official capacity. (Pet. 8a–9a.) The court also concluded:

That the challenges by the individual defendants, endorsed and supported by the Citizens Council, although not patently discriminatory on their face, were actually "massively discriminatory in purpose and effect, and as such unconstitutional." (Pet. 9a.)

That the action of the Registrar giving effect to the mass challenges of the individual defendants achieved a discriminatory result in violation of his duties under the Fifteenth Amendment. Whether or not he had the racially discriminatory purpose which motivated the action of the individual defendants and the Citizens Council is irrelevant as a matter of law. The challenges, having been made in violation of the Fifteenth Amendment and 42 U.S.C. 1971(a), were null, void and ineffective for any purpose, and the voters taken off the registration rolls as a result thereof were illegally removed. (Pet. 9a.)

The court's decree enjoined the individual defendants and the Citizens Council from making (or causing to be made) racially discriminatory challenges. It enjoined the Registrar from giving legal effect to the challenges against the Negro registrants; from permitting their names to remain off the Washington Parish registration rolls; and from giving effect, in the future, to racially discriminatory challenges. (Pet. 1a–4a.)

SUMMARY OF ARGUMENT

As applied to state action, 42 U.S.C. 1971 (a) and (c) are constitutional for the reasons advanced by the Government in *United States* v. *Raines*, No. 64, this Term. Both cases involve voting discrimination by state officials—in *Raines* by officials acting against qualified Negro applicants to register; in this case by an official acting against Negro voters who had already been registered. In this case, private individuals, availing themselves of state challenging provisions, singled out Negro citizens for discriminatory treatment and the Registrar who acted upon the challenges consummated and gave effect to the discrimination. In its entirety this conduct constituted state action.

State action is also to be found in the acts of the individual defendants, who availed themselves of state statutory provisions which exist for the purpose of revising and correcting the state's registration rolls. The individual defendants used state facilities, equipment, and records, all for the purpose of causing ac-

tion to be taken by a state official against the persons whose registrations were being challenged.

That Negroes were singled out for challenging is not disputed. The evidence amply supported the District Court's findings of fact that the Negroes' massive removal from the registration rolls through the action of the individual defendants and the Registrar was accomplished for reasons of race or color.

Restoration to the voting rolls of Negroes discriminatorily removed therefrom was precisely the type of relief in cases of this sort for which Congress enacted the Civil Rights Act of 1957. Such relief is fully within the equity powers of the federal courts, which have sanctioned and employed restoration to the registration rolls where Negro voters have been removed therefrom in large numbers.

ARGUMENT

I

42 U.S.C. 1971 (a) AND (c) ARE CONSTITUTIONAL

It was urged below in support of the motions to dismiss that 42 U.S.C. 1971 (a) and (c) are unconstitutional and reliance was had upon the decision in *United States* v. *Raines, et al.*, 172 F. Supp. 552 (M.D. Ga.). An appeal from that decision is pending in this Court (No. 64, this Term), and was argued at the January 1960 session. In the instant case the District Court refused to follow the *Raines* decision and held that 42 U.S.C. 1971 (a) and (c) are constitutional. *United States* v. *McElveen*, 177 F. Supp. 355 (E.D. La.). (Pet. 11a-19a.)

Our arguments in support of the constitutionality of 42 U.S.C. 1971 (a) and (c) as applied to state action were fully presented in the *Raines* case, and we do not repeat them here.[9]

It is our position that the issue with respect to the constitutionality of the Civil Rights Act of 1957 is the same here as in *Raines, viz.*, whether 42 U.S.C. 1971 (a) and (c) are constitutional as applied to persons, acting under the authority of the state, charged with depriving citizens of voting rights on account of race or color. However, the following factual (but, in our view, legally immaterial) distinctions between the two cases exist: (1) The defendants in *Raines* were all state officers; here, only the respondent Thomas (the Registrar) is a state officer; the other defendants are a private organization (the Citizens Council), and individuals (members of the Council) who, though not state officers, used procedures authorized by state law and thereby induced action by the state officer; and (2) *Raines* involved discrimination in the registration process, the Negro citizens there not being allowed to register because of their race; here, the Negroes were registered voters, many perhaps for several years, but they were removed from the rolls because of their race. This latter fact obviously calls for no difference in result from *Raines;* deprivation of voting rights because of race or color is equally unconstitutional, and the statute's application is equally valid, whether new or old voters are involved. As to the first factual

[9] Copies of our briefs in *Raines* are being served on counsel for the respondent and the individual defendants, who are also being served with this brief.

distinction noted above, the Registrar Thomas is at present the only defendant who has appealed; the individual defendants and the Citizens Council have, thus far at least, not filed notices of appeal, and if they fail to do so by March 11, 1960 (sixty days from entry of judgment), the decree will become final as to them, and no issue as to them would arise on this appeal. Clearly, the legal arguments made in *Raines* are fully applicable to Thomas, a state official exercising authority of the state under color of law, without need of further elaboration. However, in view of the presence in the case of the other defendants who may still appeal, we are presenting a full argument as to the validity of the statute as applied to the actions of all the defendants, including Thomas, as found by the District Court.

II

THE REMOVAL OF THE NEGRO CITIZENS FROM THE ROLLS CONSTITUTED STATE ACTION

The Fifteenth Amendment and 42 U.S.C. 1971(a) protect the federal right of citizens to vote, without distinction of race or color, from denial or abridgment by the states or by the United States. A violation of these provisions occurs even though the statute under which the deprivation occurs is not discriminatory on its face (cf. *Neal* v. *Delaware*, 103 U.S. 370; *Yick Wo* v. *Hopkins*, 118 U.S. 356), and even though ostensibly non-racial standards are being applied (*Guinn* v. *United States*, 238 U.S. 347; *Lane* v. *Wilson*, 307 U.S. 268; *Davis* v. *Schnell*, 81 F. Supp.

872 (S.D. Ala.), affirmed, 336 U.S. 933). See *Lane v. Wilson*, *supra*, at p. 275:

> The [Fifteenth] Amendment nullifies sophisticated as well as simple-minded modes of discrimination. It hits onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race.

And in *Yick Wo v. Hopkins*, 118 U.S. 356, 373, 374, the Court stated:

> Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution. * * *

Those principles are fully applicable to this case.

A. THE REGISTRAR WAS ACTING ON BEHALF OF THE STATE AND WAS A PROPER PARTY DEFENDANT

1. Under the Fifteenth Amendment—

> The vital requirement is State responsibility—that somewhere, somehow, to some extent, there be an infusion of conduct by officials, panoplied with State power, into any scheme by which colored citizens are denied voting rights merely because they are colored.[10]

It is not in dispute that the Registrar acted as an

[10] Opinion of Mr. Justice Frankfurter in *Terry v. Adams*, 345 U.S. 461, 473.

officer of the state in participating in, and giving effect to, the racially discriminatory challenges. Admittedly, he was an officer of the state at all times pertinent to this case. Beyond doubt, the actions of state registrars of voters are actions of the state. See *Thornton* v. *Martin*, 1 Race Rel. L. Rep. 213 (M.D. Ga.); *Davis* v. *Schnell*, 81 F. Supp. 872 (S.D. Ala.), affirmed, 336 U.S. 933; *Byrd* v. *Brice*, 104 F. Supp. 442 (W.D. La.), affirmed, 201 F. 2d 664 (C.A. 5); *Lane* v. *Wilson*, 307 U.S. 268.

It is wholly irrelevant to the issue of "state action" whether the Registrar personally shared the discriminatory purpose of the individual defendants; the "intent" or personal state of mind of the public officer or agency through whom racial discrimination is accomplished is of no legal significance. What matters is the fact of discrimination through state conduct. *Department of Conservation and Development* v. *Tate*, 231 F. 2d 615 (C.A. 4), certiorari denied, 352 U.S. 838; *Sweeney* v. *Louisville*, 102 F. Supp. 525 (W.D. Ky.), affirmed sub nom. *Muir* v. *Louisville Park Theatrical Association*, 202 F. 2d 275 (C.A. 6), reversed *per curiam*, 347 U.S. 971; cf. *Shelley* v. *Kraemer*, 334 U.S. 1 (state court enforcement of a racially restrictive covenant is state action prohibited by the Fourteenth Amendment although the court did not share the discriminatory purpose); *Cooper* v. *Aaron*, 358 U.S. 1, 15–16. Indeed, positive legal opposition by a state and a city to "private" racial discrimination enforced by public officers does not negate the presence of state action. *Pennsylvania* v. *Board of Directors of City Trusts*, 353 U.S. 230.

2. It was urged below that because the Registrar has no discretion under the Louisiana challenging laws,[11] he cannot be held responsible for the discrimination exercised by others nor can any discriminatory intent be imputed to him.

As we have just indicated, this argument is based on the erroneous assumption that the Registrar is being held responsible here in a personal sense. On the contrary, the proceeding involves him only in his official capacity as an agency of the state exercising governmental authority vested in him by the state. In any event, it is immaterial that the Registrar may be compelled under state law to give effect to challenges even if he knows them to be discriminatory.[12] This contention ignores the paramount *federal* duty of the Regis-

[11] La. R.S. 18:245 (1950) (set forth at pp. 3-4, *supra*), or its counterpart R.S. 18:133 (1950). See *Smith* v. *Flournoy*, 115 So. 2d 809 (La.).

[12] In *Thomas* v. *McElveen*, *supra*, p. 9, n. 8, the Louisiana local court assumed that, even if the two individual defendants there had made racially discriminatory challenges, the Registrar was nevertheless obliged to give them effect. Since no evidence of the racially discriminatory purpose of the individual defendants was before the local Louisiana court, its comments as to the Registrar's obligations were *obiter* at best; but in no event would they be binding on the federal courts insofar as any determination of a federal constitutional question was concerned. See *Smith* v. *Allwright*, 321 U.S. 649, 662. Moreover, it appears that the bulk of the challenges involved in this case were not involved in the local proceeding but were made after the local court's judgment. The petition in that proceeding alleged that the individual defendants had filed 140 challenges. *Thomas* v. *McElveen*, Civil Docket No. 18,751, 22 Judicial District Court, Parish of Washington, Louisiana, April 6, 1959. The full text of the opinion is set forth in the Record at pp. 65-74.

trar as a state official—his duty under both the Fifteenth Amendment and under Art. VI, cls. 2 and 3 of the Constitution of the United States. As this Court stated in *Ex parte Virginia*, 100 U.S. 339, 348:

> We do not perceive how holding an office under a State, and claiming to act for the State, can relieve the holder from obligation to obey the Constitution of the United States, or take away the power of Congress to punish his disobedience.

If there is a conflict between federal and state duties imposed upon a state registrar of voters, the state duties are superseded. Cf. *Ex parte Siebold*, 100 U.S. 371, 386. A state may not require by law that its registrars violate their federal duty to refrain from racial discrimination. See *Guinn* v. *United States*, 238 U.S. 347. If it has no power to do so directly by statute, it obviously cannot do so indirectly by attempting to permit private citizens to file discriminatory challenges and then require the registrar to honor them automatically.[13]

It follows that the Registrar not only had the authority but the duty under the federal Constitution to refuse to take any action based upon the discriminatory challenges. The evidence showed and the District Court found (Pet. 7a–8a) that the Registrar

[13] Likewise, it could not be maintained that the Registrar could be subjected to state criminal penalties for violating his state duty by refusing to honor discriminatory challenges or by reinstating persons thus challenged to the registration rolls. His paramount federal duty would be a complete defense in any such criminal proceeding. *Ex parte LaPrade*, 289 U.S. 444; *In re Neagle*, 135 U.S. 1.

had reason to know that the challenges were racially discriminatory.

Finally, even if it be assumed, *arguendo*, that the Registrar acted only as an unwilling but necessary conduit through which the racial discrimination of the individual defendants was carried out, still he would be a proper party defendant in this suit. In cases such as *Shelley V. Kraemer*, 334 U.S. 1, there is no implication that the state courts which enforced racially restrictive covenants did so wilfully or even purposely. It is enough here that the Registrar was a participant and a necessary one, in a process, for which the state was responsible, which could be and was in fact used to achieve deprivations of voting rights because of race or color. See *Cooper* v. *Aaron*, 358 U.S. 1, 15–16.

The Registrar is more than a proper party defendant; he is of course an indispensable party. He alone, as Registrar of Voters in Washington Parish, is in a position to effectuate the District Court's decree by restoring to the registration rolls the persons who were illegally removed therefrom. It should be noted in this connection that 42 U.S.C. 1971(c) does not specify that the suits by the Attorney General must be solely against those persons who engage in the acts and practices proscribed by subsections (a) and (b). Because Section 1971(c) provides for preventive relief, it authorizes all equitable remedies and procedures which are consistent with the policy, purposes, and provisions of the Act. Accordingly, all persons who may be affected by the decree may, and

should, be made parties to the suit.[14] See *Commonwealth Trust Co.* v. *Smith*, 266 U.S. 152; *Niles-Bement-Pond Co.* v. *Iron Moulders Union*, 254 U.S. 77, 80; *Minnesota* v. *Northern Securities Co.*, 184 U.S. 199, 235; Pomeroy, *Equity Jurisprudence*, 152, 153, Section 114 (5th ed. 1941).[15] The Registrar, who would be most immediately affected by the decree, was therefore a proper and necessary party, if the preventive relief which Congress directed is to be made fully effective.

B. STATE ACTION PERMEATES THE ACTIONS OF ALL THE DEFENDANTS

By all judicially recognized standards, the requirement of "state action" is met with respect to all of

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[14] See Rule 20(a) of the Federal Rules of Civil Procedure, especially:

> All persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of them will arise in the action. A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities.

See *Shields* v. *Barrow*, 17 How. 130, 139.

[15] The principle involved here was well stated in *Palo Alto Banking & Investment Co.* v. *Mahar*, 65 Ia. 74, 21 N.W. 187, where the court, speaking of a county recorder of deeds, said (at pp. 189–190): "* * * An officer may be made a party to an action to restrain him in the performance of official duties, when the discharge of these duties will be the means of consummating or aiding fraudulent purposes, or of working oppression or injustice. While the officer is guilty of no wrong or unlawful purposes, his official act may result in wrong, and through it fraudulent conspiracies may be carried out. He will be restrained from acting * * *."

the other defendants as well. Indeed, to this point none of the parties defendant has contended the contrary, although motions to dismiss and answers were filed by all.

1. Elections are so intrinsically a public function that the state cannot divorce itself from any of their aspects. The revision or correction of voters' registration rolls is a familiar state function and an essential part of the election machinery in most states. The right of the state to purge registration lists has been characterized as "one of the high prerogatives of the state to provide for and insure honest elections." *Pierce* v. *Superior Court*, 1 Cal. 2d 759, 761; 37 P. 2d 460, 461.

Racial discrimination by private individuals administering any phase of the state's electoral process violates the Fifteenth Amendment and 42 U.S.C. 1971(a). This basic principle, controlling here, has now been firmly established by this Court. *Smith* v. *Allwright*, 321 U.S. 649, 664, held:

> This grant to the people of the opportunity for choice is not to be nullified by a State through casting its electoral process in a form which permits a private organization to practice racial discrimination in the election. * * *

See also *Terry* v. *Adams*, 345 U.S. 461, and *Rice* v. *Elmore*, 165 F. 2d 387 (C.A. 4), certiorari denied, 333 U.S. 875, which involved racial discrimination in voting by private groups or individuals wholly without state statutory machinery.

[16] A collection of state registration purging cases may be found in 96 A.L.R. 1035.

The racial discrimination here, made possible by the statutory challenging procedures established by Louisiana and used by the individual defendants for racial ends, is well within the ambit of the Fifteenth Amendment and of 42 U.S.C. 1971(a).

2. The District Court found that the four individual defendants, with the approval and endorsement of the Citizens Council of which they are members, initiated the challenges involved pursuant to state statutory authorization. Using the physical facilities of the Registrar's office they scrutinized the registration cards and related voting materials, all of which were state property provided for by state statute and financed by public funds. Indeed, so preemptive of the Registrar's official time, place and paraphernalia were these defendants, that in his view they were making public nuisances of themselves, and he unsuccessfully attempted to enjoin them in state court litigation. *Thomas* v. *McElveen, supra,* p. 9, n. 8.

From time to time the individual defendants executed Affidavits of Challenge authorized by state statute and supplied by the state. These affidavits were sworn to before the Registrar, a state official, and notarized by him or his deputy. The affidavits triggered the issuance to the challenged Negroes of statutorily-authorized Citations of Notice to Erase, also provided by the state. At every step in the process there was an infusion of state power and state authorization.

Furthermore, it is of the greatest significance that the individual defendants, in carrying through this challenging process, were not forwarding any private

interests of their own, but solely the public interest of the State of Louisiana in the purity of its election rolls and its elections. By state statute the challengers were created "private attorneys general" to vindicate the interests of the state—not any private interest—in the proper enforcement of its electoral laws. If the challenging process here had been wholly carried on by the State's Attorney General, his conduct would undeniably have been state action in the fullest sense. It should make no difference that Louisiana has chosen to entrust this official function to an otherwise private individual, who becomes *pro tanto* an organ of the state. See also *infra*, pp. 24 *ff*.

In sum, statutory authorization, the official interest purportedly being vindicated by the challenging mechanism and process, the extensive employment of state property, state physical facilities, the use of state records, documents, forms and officers, the recognition and enforcement by the state of the result—all combine to make the state the effective medium of the discrimination.[17] *Kerr* v. *Enoch Pratt Free Library of Baltimore City*, 149 F. 2d 212 (C.A. 4), certiorari denied, 326

[17] "* * * Under some circumstances state contact, control and encouragement may be so intimately fused with the activities of a private group or individual in the performance of a public function that it seems fair to call the activity 'state action' * * *." Shanks, "*State Action*" *and the Girard Estate Case*, 105 U. of Pa. L. Rev. 213, 227 (1956). The author wrote of the applicability of the constitutional limitations of the Fourteenth Amendment to private conduct of a non-exclusive state function. He pointed out that where, as here, a private group is participating in an exclusive function of the state, *i.e.*, voting, it is all the more subject to constitutional limitations. *Ibid.*

U.S. 721. See also *Parker v. University of Delaware*, 31 Del. Ch. 381, 75 A. 2d 225.

3. As we have indicated, the principle is now established that private individuals administering any phase of the electoral processes must conform their conduct to the standards of the Fifteenth Amendment. Although this rule has special significance in election matters because of their uniquely public nature, it has been applied to other activities of private individuals—even some (unlike the case here) in which the activity is not traditionally a public function or carried on pursuant to statutory authorization.[15] Thus, a private party operating a municipality acts for the state and must conform to the standards of the Fourteenth Amendment, *Marsh v. Alabama*, 326 U.S. 501; a privately-owned public transportation system operating in the District of Columbia, and with its authorization, is bound by the due process clause of the Fifth Amendment, *Pollak v. Public Utilities Commission*, 191 F. 2d 450 (C.A.D.C.), reversed on other grounds, 343 U.S. 451; private lessees who operate publicly-owned facilities such as swimming pools or parks may not discriminate racially, *Lawrence v. Hancock*, 76 F. Supp. 1004 (S.D. W. Va.); *Department of Conservation and Development v. Tate*, 231 F. 2d 615 (C.A. 4), certiorari denied, 352 U.S. 838; a labor union granted the power

[15] "* * * Not only may the private group be denied a liberty to act as it sees fit in an area of state concern, but when the group so exercises its powers as to infect the blood-stream of official sovereignty its exercise of power may be treated as the assertion of state authority." Howe, *The Supreme Court, 1952 Term (Foreword; Political Theory and the Nature of Liberty)*, 67 Harv. L. Rev. 91, 95.

to bargain collectively by a federal statute may not use the power to discriminate racially. *Brotherhood of Railroad Trainmen v. Howard*, 343 U.S. 768; *Syres v. Oil Workers International Union*, 350 U.S. 892; cf. *Steele v. Louisville & Nashville R. Co.*, 323 U.S. 192.

In *Railway Employes' Dept. v. Hanson*, 351 U.S. 225, the respondents contended, *inter alia*, that union shop agreements, specifically permitted by the Railway Labor Act, operated to deprive them of rights secured by the First and Fifth Amendments. In the course of its opinion holding that no rights were infringed upon, the Court said, at page 232:

> If private rights are being invaded, it is by force of an agreement made pursuant to federal law which expressly declares that state law is superseded. * * * In other words, the federal statute is the source of the power and authority by which any private rights are lost or sacrificed. * * * *The enactment of the federal statute authorizing union shop agreements is the governmental action on which the Constitution operates, though it takes a private agreement to invoke the federal sanction.* [Emphasis added.]

See also *Cooper v. Aaron*, 358 U.S. 1, 17, 19.

From these and comparable cases emerge two related doctrines: (1) If private individuals exercise functions of public significance which by tradition are exclusively or chiefly governmental functions, "state action" is involved regardless whether the activities are authorized by statute; and (2) if private individuals act under authority granted them by state law, "state action" is involved regardless whether the conduct is traditionally a function of the state.

Here, not only are private individuals participating in a traditional state function, but they are doing so pursuant to statutory authorization. Clearly, then, their activities are within the purview of the Fifteenth Amendment.

4. The individual defendants are also within the ambit of the Fifteenth Amendment by virtue of their inseparability from the Registrar in the whole discriminatory scheme. In many instances private persons have been held to be under the "panoply" (cf., Frankfurter, *J.*, in *Terry* v. *Adams*, 345 U.S. 461, 473) of state action or color of law when acting closely with state officials. See *Baldwin* v. *Morgan*, 251 F. 2d 780, 788 (C.A. 5); *Valle* v. *Stengel*, 176 F. 2d 697, 702 (C.A. 3); *Picking* v. *Pennsylvania R. Co.*, 151 F. 2d 240, 249 (C.A. 3); *Brown* v. *United States*, 204 F. 2d 247 (C.A. 6). If a private citizen induced by a state officer to act with him is within the "state action" concept (see *Kochler* v. *United States*, 189 F. 2d 711 (C.A. 5)), surely the conduct of a private citizen who possesses actual state power to compel a state officer to act [19] becomes "state action" itself.

5. State enforcement of private discrimination is state action and may violate constitutional guaranties even where traditionally private legal relationships are involved. *Shelley* v. *Kraemer*, 334 U.S. 1; *Barrows* v. *Jackson*, 346 U.S. 249; *Pennsylvania* v. *Board of Directors of City Trusts*, 353 U.S. 230. The touchstones

[19] The Louisiana Supreme Court has held that registrars' duties in giving effect to challenges filed by private individuals are ministerial and mandatory. *Smith* v. *Flournoy*, 115 So. 2d 809 (Nov. 9, 1959).

of "state action" in these cases, and in *Terry* v. *Adams*, *supra*, are the elements of acquiescence, recognition and enforcement by the state of essentially private discrimination. As the Court said in *Communications Assn.* v. *Douds*, 339 U.S. 382, 401:

> * * * when authority derives in part from Government's thumb on the scales, the exercise of that power by private persons becomes closely akin, in some respects, to its exercise by Government itself. * * *

Thus, by the state's recognition and enforcement of activity beginning as private racial discrimination, still another criterion of "state action" is met in this case. Indeed, as we have pointed out, this case is stronger because neither the Registrar nor the individual defendants were promoting any private interest in challenging the Negro voters. In cases such as *Shelley* v. *Kraemer*, the persons engaged in the discriminatory conduct were advancing private goals.[20]

III

THE DISTRICT COURT'S FINDINGS OF FACT ARE AMPLY SUPPORTED BY THE EVIDENCE[21]

The District Court's order setting a date for the

[20] State action is present even if Louisiana law prohibits such racial discrimination as was practiced here. *Raymond* v. *Chicago Union Traction Co.*, 207 U.S. 20; *Home Tel. and Tel. Co.* v. *Los Angeles*, 227 U.S. 278; *Iowa-Des Moines Bank* v. *Bennett*, 284 U.S. 239. See the Reply Brief for the United States in *United States* v. *Raines*, No. 64, this Term.

[21] While respondent has not indicated that he will attack the sufficiency of the evidence to support the findings, we are including this discussion in the brief by way of anticipatory rebuttal in the event that the point should be raised.

hearing for a preliminary injunction (R. 21), specified that the hearing would be confined to a record made up of affidavits, depositions, or other written documents. In addition to the pleadings, the documentary evidence adduced at the hearing consisted chiefly of affidavits by the defendants, the defendants' responses to requests for admissions, the deposition of the Registrar, photographs of certain registration records, state court opinions, and state registration statistics.

The evidence in this voluminous documentary material fully warranted the District Court's findings of fact. That evidence has been summarized in the Statement, *supra*, pp. 6–10.

The only significant fact in dispute at the hearing was whether the defendants engaged in racial discrimination. The court found that they had engaged in such discrimination, from the following evidence:

a. The individual defendants confined their examination of the registration records almost exclusively to the records of Negroes. R. 28, 90. They did not examine records in those wards in which no Negroes were registered. R. 28, 90. These facts were admitted. R. 28, 90.

b. The challenges were directed almost exclusively at Negro voters, with only a token number of white persons being challenged. R. 51, 28, 90. No white voters were challenged in the wards having no Negro registrants. R. 28, 90. These facts were admitted. R. 51, 28, 90.

c. The deficiencies which formed the basis of the challenges of Negroes existed also in the registration

cards of over 50% of all registered voters. R. 51, 28 40
This fact was admitted. R. 51, 28, 40

d. The Registrar was aware of this discriminatory pattern when he gave effect to the challenges. R. 48-51, 56, 57, 69, 73, 28, 40.
This fact was admitted. R. 48-51, 56, 57, 69, 72-73, 28, 40

e. One of the purposes of the Citizens Council is racial segregation. R. 96. This fact was admitted. R. 96.

This summary of the undisputed evidence is more than sufficient to support the findings of racial discrimination made by the District Court.

IV

RESTORATION TO THE ROLLS OF THE ILLEGALLY REMOVED NEGRO CITIZENS CONSTITUTED APPROPRIATE RELIEF

The respondent urged in the District Court and in his stay motion in the Court of Appeals that the order requiring him to restore to the registration rolls the Negro citizens who were illegally removed would require him to violate state law, thereby subjecting him to irreparable injury and would result in restoring unqualified persons to the registration rolls. Apparently, the argument is that requiring restoration to the registration rolls of persons not technically qualified to vote (*a*) was beyond the power of the court under the Civil Rights Act of 1957 and (*b*) was inappropriate in equity.

A. THE CIVIL RIGHTS ACT OF 1957 AUTHORIZES THE RELIEF GRANTED.

1. 42 U.S.C. 1971(*c*) authorizes the Attorney General to institute "a civil action or other proper proceeding for preventive relief, including an application

for a permanent or temporary injunction, restraining order, or other order." (*Supra*, p. 3.) Section 1971(d)[22] grants jurisdiction to the district courts of proceedings instituted pursuant to Section 1971.

The order of the District Court requiring the Registrar to restore to the registration rolls the names of the Negroes illegally removed is clearly an injunction as that term is used in Section 1971(c).[23] True, this order is mandatory in substance, since it requires restoration to the *status quo* prior to the filing of the invalid challenges. But this certainly does not alter the fact that it is an injunction within the meaning of the Act. In any event, the phrase "or other order" in Section 1971(c) authorizes affirmative equitable relief where such relief is appropriate. See, *e.g.*, *Porter* v. *Warner Co.*, 328 U.S. 395.

2. The broad, unqualified language of the Act and its legislative history compel the conclusion that, so

[22] (d) Jurisdiction; exhaustion of other remedies.

The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

[23] This phase of the decree is couched in the language of an injunction:

3. Curtis M. Thomas, individually and as Registrar of Voters of Washington Parish, Louisiana, his deputies and agents, and the successors of each, are hereby enjoined as follows:

* * * * *

(*b*) From permitting the names of any of the approximately 1,377 persons challenged * * * to remain, off the present and current rolls of qualified voters of Washington Parish, Louisiana, or from a legal supplement thereto, longer than ten days * * *.

far as the right to vote was concerned, Congress authorized and directed the most comprehensive protection which judicial power and remedies could provide. Specifically, it clearly contemplated that the courts would order the effective restoration to the voting rolls of persons who have been illegally removed because of their race, and who—but for that fact—would be entitled to vote. And in this case the decree was based upon a flat finding that "But for [the defendants' actions], the approximately 1,377 Negroes previously registered to vote and removed from the registration rolls would be presently registered to vote." (Pet. 8a.) Where such a finding is made by a court, the 1957 Act gives it full power to enter such decrees and to take such other action as may be required to vindicate the constitutional rights involved. Congress did not intend the federal courts to enter empty or abstract formal declarations, but rather to effectively restore the right of franchise.

In connection with the meaning of some of the language now embodied in Section 1971(c), the following colloquy took place at a hearing before the House Judiciary Committee, between Representative Miller and then Attorney General Brownell: [24]

> Mr. MILLER. Mr. Attorney General, on page 6 of the same bill, section 121, paragraph 4, "Whenever any persons have engaged or are about to engage in any acts or practices," from your experience as Attorney General during the past 4 years could you give me a hypothetical

[24] Hearings before Subcommittee No. 5 of the House Committee on the Judiciary, 85th Cong., 1st Sess., p. 601.

example of what might be "about to engage in any act"?

Mr. BROWNELL. Yes. For example, if you have a registrar of voters who arbitrarily strikes off several thousand names of Negro voters shortly before the deadline for qualification of voters and gives no hearing to them or an inadequate hearing, then I would think that would be a case that would alert the Attorney General under this bill to the need for some injunctive action which would give those people their day in court *and allow them, like any other citizen, the right of franchise.*

Mr. MILLER. *To be placed back on the books for the purpose of the forthcoming election so they would not lose their franchise* in that election, which they would lose if they had to resort to a lengthy criminal proceeding.

Mr. BROWNELL. That is right. [Emphasis added.]

At the hearings held by the Subcommittee on Constitutional Rights of the Senate Judiciary Committee, Mr. Brownell testified to the same effect in detailing the 1956 purge of Negro voters in Ouachita Parish, Louisiana. His statement, the significant portion of which is printed below, leaves no question that the prevention of the practice of purging Negro voters in Louisiana was one of the major purposes of the Act:[25]

* * * * *

Let me now give you some examples of situations which have come before us * * * in which

[25] Hearings before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, 85th Cong., 1st Sess., pp. 3–5.

we think the proposed legislation would have been of great assistance in protecting the right to vote.

First, let me refer to the situation which developed last year in Ouachita Parish, La.

In March 1956 certain members and officers of the Citizens Council of Ouachita Parish commenced an examination of the register of the voters of Ouachita Parish.

Thereafter, they filed approximately 3,420 documents purporting to be affidavits but which were not sworn to before either the registrar or deputy registrar, as required by law.

* * * * *

In each purported affidavit it was alleged that the affiant had examined the records on file with the registrar, that the registrant named therein was believed to be illegally registered and that the purported affidavit was made for the purpose of challenging the registrant's right to remain on the roll of registered voters.

Such affidavits were filed challenging every one of the 2,389 Negro voters in ward 10. None of the 4,054 white voters in that ward were challenged.

* * * * *

With respect to another ward, ward 3, such affidavits were filed challenging 1,008 of the 1,323 Negro voters.

Only 23 of the white voters in ward 3 were challenged. The registrar accepted their affidavits even though she knew that each affiant had not examined the registration cards of each registered voter he was challenging.

On the basis of these affidavits, citations were mailed out in large groups requiring the challenged voters to appear within 10 days to prove their qualifications. Registrants of the Negro race responded to these citations in large numbers. During the months of April and May large lines of Negro registrants seeking to prove their qualifications formed before the registrar's office, starting as early as 5 a.m.

The registrar and her deputy refused to hear offers of proof of qualifications on behalf of any more than 50 challenged registrants per day. Consequently, most of the Negro registrants were turned away from the registrar's office and were denied any opportunity to establish their proper registration.

Thereafter, the registrar struck the names of such registrants from the rolls. With respect to those registrants who were lucky enough to gain admission to the registrar's office, the registrar imposed requirements in connection with meeting the challenge which were in violation of Louisiana law.

The registrar refused to accept as witnesses, on behalf of challenged voters, registered voters of the parish who resided in a precinct other than the challenged voter or who had themselves been challenged or had already acted as witnesses for any other challenged voter.

By these means the number of registered Negro voters in Ouachita Parish was reduced by October 6, 1956, from approximately 4,000 to 694.

* * * * *

The point I would like to make now is that, had the administration's program been in effect, the Department would have been able to

> initiate a civil action *for the purpose of restoring the Negro voters to the rolls of registered voters* in time to vote in the November election. [Emphasis added.]

Examples from the Senate debates also manifest the congressional intention to provide for mandatory relief under the Act. Thus, Senator Morse stated:[26]

> So much has been said of injunction that it has been all but overlooked that the proposed provisions would enable the issuance of mandatory decrees after full trial on the merits. Such orders are presently enforcible by contempt action for violations of the statutes.

To the same effect is the following exchange between Senators Carroll and O'Mahoney:[27]

> Mr. CARROLL. If a court has issued its mandate to the registrar and demands that the registrar register a qualified voter, do I understand that if there were noncompliance the court would have the right to put the registrar in jail until he complied with the court's order?
>
> Mr. O'MAHONEY. Absolutely.

There is printed in the Congressional Record (103 Cong. Rec. 13334–13336) a letter from then Assistant Attorney General Warren Olney III, reciting the facts that prompted the Department of Justice to present to a grand jury certain complaints concerning the purging of Negro voters in five Louisiana parishes. The text of this letter, which is reprinted in Appendix B, *infra*, shows that one of the major objectives of the Civil Rights Act of 1957 was to prevent the very type of practice which is the subject matter

[26] 103 Cong. Rec. 12460.

[27] 103 Cong. Rec. 12572.

of this suit. Other examples of consideration by Congress of the practice of challenging Negro voters may also be cited. See 103 Cong. Rec. 13873; Hearings Before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, 85th Cong., 1st Sess., pp. 3–5, 31, 66, 240–243; Hearings Before Subcommittee No. 5 of the House Committee on the Judiciary, 85th Cong., 1st Sess., pp. 1219–1222.

3. Even in the absence of such compelling legislative history, it has frequently been held that statutory provisions similar to 42 U.S.C. 1971(c) authorize the federal courts of equity to grant affirmative, effective relief. See *e.g.*, *United States* v. *Moore*, 340 U.S. 616; cf. *Texas & N.O.R. Co.* v. *Brotherhood of Ry. Clerks*, 281 U.S. 548; *Phelps Dodge Corp.* v. *N.L.R.B.*, 313 U.S. 177; *Walling* v. *O'Grady*, 146 F. 2d 422 (C.A. 2); *McComb* v. *Frank Scerbo & Sons, Inc.*, 177 F. 2d 137 (C.A. 2). As this Court stated in *Porter* v. *Warner Co.*, 328 U.S. 395, 398, in which it was held that the phrase "or other order" authorized the granting of affirmative relief: "Unless a statute in so many words, or by a necessary and inescapable inference, restricts the court's jurisdiction in equity, the full scope of that jurisdiction is to be recognized and applied." See also, to the same effect, *Mitchell* v. *Robert De Mario Jewelry, Inc.*, No. 39, this Term, decided January 18, 1960, slip op., pp. 3–4.

These considerations lead inescapably to the conclusion that the Civil Rights Act of 1957 authorizes the relief granted in this case, that is, restoration to the registration rolls of the names of qualified voters found to have been challenged and removed from the rolls, in violation of the Act, because of their race or

color. Where race or color is found to be the ground for "disqualification" of a voter, that finding erases the alleged disqualification—and the voter is fully entitled to exercise his rights of which he has been discriminatorily deprived. Accordingly, the proper relief is to order the appropriate election officials to restore him to the rolls, *i.e.*, to the status he held prior to the discriminatory "disqualification." To the extent that such a provision need find support in the exercise of judicial discretion in the particular circumstances of the case, such support exists here, as we shall now show.

B. THE ORDER OF RESTORATION TO THE ROLLS WAS WITHIN THE DISTRICT COURT'S DISCRETIONARY POWERS

The District Court found here that the challenges were directed against Negro voters and not against white voters similarly situated. The substantial injury suffered by the Negro voters thus challenged lies in the fact that they alone were compelled to prove their right to remain on the registration rolls. Since the challenges were based on deficiencies appearing on the registration cards, the Negroes who were challenged were required, as a practical matter, to register *de novo*.

Section 245 of Title 18 of the Louisiana Revised Statutes of 1950 provided the only means by which the challenged registrants here could prove their right to remain on the registration rolls.[28] Under that provi-

[28] The Constitution of Louisiana (Art. 8, Sec. 5) provides an alternative, judicial method for challenging registrants and affords those challenged trial by jury. The procedural safeguards embodied in this method provide a striking contrast to

sion, a challenged registrant must appear in person before the registrar within ten days from the date of the mailing of the citation and prove his right to remain on the rolls "by written affidavit of three bona fide registered voters in the form as provided in R.S. 18:132." Where the challenges are based on deficiencies on the registration cards, the affiants must swear, under penalty of perjury,[29] that no such deficiencies exist in the registration records. Where, as in this case, such deficiencies did in fact exist, the only feasible alternative by the challenged registrant is to register *de novo*.

Registration *de novo* in Louisiana entails passing all the stringent tests which are imposed as qualifications for voting.[30] To compel members of one race

---

the provisions "of an extremely summary nature" (see *Reddix v. Lucky*, 252 F. 2d 930, 931, n. 1 (C.A. 5)) which were resorted to in this case and seem to be generally employed in Louisiana.

[29] "* * * [A] prima facie case of perjury on the part of either the challenger or the counter affiants may have been made out, and if apparent perjury is disclosed, the entire matter should be referred to the District Attorney and/or the Grand Jury (Reports and Opinions of the Attorney General, 1956–1958, p. 183.)." *Thomas v. McElveen*, *supra*, p. 9, n. 8. See also, La. R.S. 18:222.

[30] Among such tests are the following: He shall be of good character, and shall understand the duties and obligations of citizenship under a republican form of government (R.S. 18:31 (2)); unless he is illiterate (in which case he must meet other standards (*viz.* R.S. 18:36)), he shall be able to read and write, and shall demonstrate his ability to do so by making under oath written application entirely written, dated, and signed by him without assistance or suggestions from any source (R.S. 18:31 (3)), and the application form includes questions such as "I am now ____ years, ____ months, and ____ days of age. * * * My color is ____." (R.S. 18:32); he shall be able to read "any clause in the Constitution of Louisiana or of the United States and give a reasonable interpretation thereof." (R.S. 18:35.)

only to respond to challenges under these conditions violates the Fourteenth as well as the Fifteenth Amendment, regardless of the deficiencies which might exist in their registration cards; and, as was said in *Reddix* v. *Lucky*, 252 F. 2d 930, 938 (C.A. 5):

> If the plaintiff has been illegally removed from the voters' list his remedy lies in having the illegal action rescinded, not in re-registering.

In *Thornton* v. *Martin* (M.D. Ga.), 1 Race Relations Law Reporter 213, 22 Negroes brought a class action for damages and for an injunction against the registrars of Randolph County, Georgia, alleging that the names of the plaintiffs and some 175 other Negroes similarly situated had been illegally removed from the list of voters solely because of their race. In granting the injunction, the court stated (*id.* at 216):

> This court has jurisdiction to issue an appropriate injunction in this case, the effect of which will be, in general, to enjoin the three defendant Registrars and their successors in office from longer permitting the names of the Negro citizens of Randolph County, Georgia, whose names were on the list of registered voters in Randolph County for 1952 to remain off of the present voters list in said county; and from in any manner, or to any extent, discriminating against any Negro citizen of said County, (regardless of whether or not his or her name was on said voters list), in reference to the matter of suffrage because of their race or color, * * *

Deficiencies of the type for which Negroes have here been removed from the registration rolls are not

treated by the State of Louisiana as being bases of disqualification. This is demonstrated by the fact that thousands of white people whose registration cards have the same deficiencies as the Negroes' in this case are on the rolls today. The individual defendants have not challenged these white registrants. Nor has the Registrar exercised his independent powers to challenge them. See La. R.S. 18:244 (1950). The assertion that the Negroes are not qualified, as the findings of the District Court show, is but a pretext and the "profession of high purpose was a fraud designed to deny Negro citizens of a right to vote." (Pet. 11a.)

Nor would it be reasonable to suggest that, in lieu of restoration to the voting rolls, those Negroes who were left on the rolls (registered voters may challenge, R.S. 18:245) or the Registrar may challenge *en bloc* the white voters whose records contain technical deficiencies for which the Negroes were massively disfranchised. The Constitution does not sanction or require such retributive injustice. As this Court said in *Shelley* v. *Kraemer*, 334 U.S. 1, 22:

> It is, therefore, no answer to these petitioners to say that the courts may also be induced to deny white persons rights of ownership and occupancy on grounds of race or color. Equal protection of the laws is not achieved through indiscriminate imposition of inequalities.

See also, *Henderson* v. *United States*, 339 U.S. 816, 825–826.

The Fifteenth Amendment and 42 U.S.C. 1971 (a)(c) are corrective, not penal. They do not permit challenging of whites by Negroes for racial rea-

sons any more than they would permit a "black primary" as an antidote to a "white primary."

In short, reinstatement upon the registration rolls of the Negro voters illegally challenged in this case was, for the reasons we have given, within the authority and discretion of the District Court. Its order merely preserved the *status quo* existing prior to the filing of the illegal challenges and mailing of the citations to appear.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the application to vacate the stay order of the Court of Appeals should be granted,[31] that the petition for a writ of certiorari before judgment should be granted, and that the judgment of the District Court should be affirmed.

J. LEE RANKIN,
Solicitor General.
JOSEPH M. F. RYAN, JR.,
Acting Assistant Attorney General.
HENRY PUTZEL, JR.,
DAVID L. NORMAN,
J. HAROLD FLANNERY, JR.,
Attorneys.

FEBRUARY 1960.

[31] As indicated in our motion to vacate the stay order issued by the Court of Appeals, a general election will be held in Louisiana on April 19, 1960. In the event the case is not decided by this Court by that time, we believe the equities are such that the stay should be vacated in order that the Negro citizens illegally purged from the voting rolls may be restored thereto so that they may participate in that election. Unless the *status quo* existing prior to the purge is restored prior to that time, the very valuable voting rights of the persons aggrieved will have been lost *pro tanto*.

APPENDIX A

1. Samples of Registration Cards and Affidavits of Challenge

The registration cards of two school teachers; affidavit of challenge

[See p. 42a, *infra*]

(A) is the registration card of Mrs. Ethel A. Smith, a Negro woman, who was challenged by two of the individual defendants for miscomputation of her age. Her age was incorrectly figured (by one day) only if the date on which the registration card was executed is to be counted. The challenging form (A–1) is also shown. (B) is the registration card of Mrs. William A. Lewis, a white woman, who, though from the same ward, was not challenged. On her card appears the misspelling "Louisiania."

The registration cards of two other registrants; affidavit of challenge

[See p. 42b, *infra*]

(AA) is the registration card of James D. Cyrus, a Negro, who was challenged by two of the individual defendants for misspelling the county of his birth. The challenging form (AA–1) is also shown and reveals that the challengers spelled the word "misspelling" incorrectly. (BB) is the registration card of Herman K. Manning, Jr., a white man, who, though from the same ward, was not challenged. On his card appear the misspelling of his name and the misdesignation of his sex.

Date Registered

June 4, 1927

Form LR-1

FORM OF APPLICATION FOR REGISTRATION

OFFICE OF REGISTRAR OF VOTERS

Parish of Washington, State of Louisiana

Ward No. 4

Prct. No. 2

Cert. No. 346

RESIDENCE No. 920 E. 7th St.

I am a citizen of the United States and of the State of Louisiana.

My name is Mr.-Mrs.-Miss Ethel A. Smith (Please Print) I was born in the

State (or country) of Mississippi Parish (or county) of Covington

on the 24 day of Sept. in the year 1887 I am now 69 years, 8

months and 10 days of age. I have resided in the State since 1913

in this Parish, since 1913 and in Precinct No. 2 in Ward No. 4

of this Parish continuously since 1955. I am not disfranchised by any provisions of the Constitution

of this State. The name of the householder at my present address is Mrs Ethel A. Smith

My occupation is teaching My color is Negro My sex is Female

I am not now registered as a voter in any other Ward or Precinct of this State, except None

My last registration was in Ward 4 Precinct 12 Parish Washington

I am now affiliated with the Democratic Party.

Signature Miss Ethel A. Smith

Sworn to and subscribed before me Curtis M. Thomas

(Deputy) Registrar

(A)

Date Registered

MAY 22 1958 195

Form LR-1

FORM OF APPLICATION FOR REGISTRATION

OFFICE OF REGISTRAR OF VOTERS

Parish of Washington, State of Louisiana

Ward No. 4

Prct. No. 7

Cert. No.

RESIDENCE No. 1632 Ave G

I am a citizen of the United States and of the State of Louisiana.

My name is Mr.-Mrs.-Miss Mrs Wm. A. Lewis (Please Print) I was born in th

State (or country) of Louisiana Parish (or county) of WASH.

on the 12 day of Nov. in the year 1914 I am now 43 years, 6

months and 10 days of age. I have resided in the State since 1914

in this Parish since 1914 and in Precinct No. , in Ward No.

of this Parish continuously since 1914. I am not disfranchised by any provisions of the Constitutio

of this State. The name of the householder at my present address is 1632 Ave G

My occupation is Teacher My color is White My sex is Fema

I am not now registered as a voter in any other Ward or Precinct of this State, except x x x

My last registration was in Ward 4 Precinct 7 Parish Wash

I am now affiliated with the Democratic Party.

Signature Mrs Wm A Lewis

Sworn to and subscribed before me Curtis M. Thomas

(Deputy) Registrar

(B)

539882 O - 60 (Face p. 42) No. 1

Form LR-17

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Washington

PERSONALLY CAME AND APPEARED BEFORE ME Curtis M. Hance
(DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington
STATE OF LOUISIANA
E. P. Jr. Edwards AND Eugene Farmer
WHO BEING DULY SWORN, DO DEPOSE AND SAY:
THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH; THAT AFTER REASONABLE INVESTIGATION BY THEM AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT Ethel A. Smith,
REGISTERED FROM 920 E. 7th St.
(Municipal number and street, if any)
TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO. WARD 4
PRECINCT ✓, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:
Age not Computed Qualification

AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4
PRECINCT, ✓ THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.

SWORN TO AND SUBSCRIBED BEFORE ME, ON THIS 12th DAY OF May, 1959

E. P. Jr. Edwards

Eugene Farmer

Curtis M. Hance
(Deputy) Registrar of Voters

Date Registered

Form 104

FORM OF APPLICATION FOR REGISTRATION

OFFICE OF REGISTRAR OF VOTERS

Parish of Washington, State of Louisiana

5/14 1947

Ward No. 4

Prct. No. 2

Cert. No. 174

RESIDENCE No. 506 Ave. C

I am a citizen of the United States and of the State of Louisiana.

My name is (Give full name) JAMES D. CYKES I was born in the

State (or country) of Miss. Parish (or county) of PEARL RIVER

on the [illegible] day of Feb. in the year 1930 I am now 26 years 7

months and 12 days of age. I have resided in the State since 1933

in this Parish since 1933 and in Precinct No. 2 in Ward No. 4

of this Parish continuously since 1933. I am not disqualified by any provision of the Constitution

of this State. The name of the husband of my present citizen is JAMES D. CYKES

My occupation is INSURANCE My color is Negro My age is 20 16

I am not now registered as a voter in any other Ward or Precinct of this State, except None

My last registration was in Ward 4 Precinct 2 Parish WASHINGTON

I am now affiliated with the DEMOCRATIC Party.

Signature James D. Cykes

Sworn to and subscribed before me [illegible]

(Deputy) Registrar

Date Registered

Form 104

FORM OF APPLICATION FOR REGISTRATION

OFFICE OF REGISTRAR OF VOTERS

Parish of Washington, State of Louisiana

5/20 1947

Ward No. 4

Prct. No. 4

Cert. No. [illegible]

RESIDENCE No. 301 Peterson

I am a citizen of the United States and of the State of Louisiana.

My name is (Give full name) HERMAN LING JR I was born in the

State (or country) of La. Parish (or county) of Wash.

on the 3 day of April in the year 1924 I am now 23 years 1

months and 13 days of age. I have resided in the State since Birth

in this Parish since Birth and in Precinct No. 4 in Ward No. 4

of this Parish continuously since Birth. I am not disqualified by any provision of the Constitution

of this State. The name of the husband of my present citizen is SELF

My occupation is paper mill My color is W My age is F

I am not now registered as a voter in any other Ward or Precinct of this State, except [illegible]

My last registration was in Ward 4 Precinct 4 Parish Wash.

I am now affiliated with the Dem. Party.

Signature Herman Ling Jr

Sworn to and subscribed before me Curtis M. Thomas

(Deputy) Registrar

Form LR-17

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF Washington

PERSONALLY CAME AND APPEARED BEFORE ME Franklin K. Thomas (DEPUTY) REGISTRAR OF VOTERS IN AND FOR THE PARISH OF Washington STATE OF LOUISIANA.

Ea. R. Mc. Elveen AND Eugene Faucette

WHO BEING DULY SWORN, DO DEPOSE AND SAY:

THAT THEY ARE BONA FIDE REGISTERED VOTERS OF THIS PARISH, THAT AFTER REASONABLE INVESTIGATION BY THEM, AND EACH OF THEM, AND ON INFORMATION AND BELIEF, THAT Josalia R. Cyrus

REGISTERED FROM 546 Ash St. Up
(Municipal number and street, if any)

TO WHOM WAS ISSUED REGISTRATION CERTIFICATE NO. WARD 4

PRECINCT 2, OF THIS PARISH, IS ILLEGALLY REGISTERED OR HAS LOST HIS OR HER RIGHT TO VOTE IN THE PRECINCT, WARD OR PARISH IN WHICH THEY ARE REGISTERED, FOR THE FOLLOWING REASONS:

Misspelling on application

AND SHOULD BE ERASED FROM THE OFFICIAL PRECINCT REGISTER OF WARD 4 PRECINCT, 2 THAT THIS AFFIDAVIT IS MADE FOR THE PURPOSE OF CAUSING SAID NAME TO BE ERASED.

SWORN TO AND SUBSCRIBED Eugene Faucette

BEFORE ME, ON THIS 13 E. R. Mc Elveen

DAY OF April, 1967

Franklin K Thomas
(Deputy) Registrar of Voters

2. Analysis of Random Sampling of Registration Cards of White Registrants Not Challenged in Washington Parish, Louisiana

The information tabulated below is derived from an analysis of the 198 registration cards of white persons not challenged. These cards were selected at random from the registration records of Washington Parish, and are part of the record in this case. By stipulation (R. ——), counsel for the parties have agreed that the registration records would not appear as part of the printed record but may be referred to in the briefs and in oral argument. The categories used in the tabulation are those which the individual defendants used to challenge the cards of the Negro citizens, as appears from analysis of a representative number of affidavits of challenge.

Although several of the challenges to Negro voters were based on illegibility, illiteracy, failure to sign card properly, and execution by more than one party, such deficiencies in white persons' registration cards have been ignored in this analysis because of the subjective nature of the judgment involved. As a result, this analysis reflects less exacting standards as applied to the cards of white persons than those used by the individual defendants to challenge Negroes. Nevertheless, sixty-eight per cent of the white persons' cards contain challengeable errors.

Moreover, although several affidavits of challenge filed by the individual defendants themselves contain misspelled words, *e.g.*, "illetirate," "promi cious misspelling," "illegibley," no attempt has been made to detail such errors.

In the summary below the "combinations of errors" category does not include any cards listed in any of the separate specific error categories. The column relating to "other" errors is composed of combina-

tions of errors apart from those which appeared most frequently and which are specifically listed under the heading, "Combinations of Errors."

White voters not challenged, though their registration cards had errors, as indicated, for which Negroes were challenged

Failure to Compute or Mis-computation of age	Misspelling	Incomplete or Erroneous Entry	Combinations of Errors			
			Age and Spelling	Age and Incomplete or Erroneous Entry	Spelling and Incomplete or Erroneous Entry	Other
79	7	13	16	16	1	3

APPENDIX B

EXCERPT FROM CONGRESSIONAL RECORD FOR AUGUST 1, 1957, DEALING WITH PRACTICE OF PURGING NEGRO VOTERS IN LOUISIANA [1]

Mr. DOUGLAS subsequently said: Mr. President, I ask unanimous consent that a letter from Warren Olney, Assistant Attorney General, which a member of the Senate Committee on the Judiciary, at my request, obtained from him, be inserted in the RECORD at the conclusion of my remarks and prior to the final vote.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS OF THE COMMITTEE ON THE JUDICIARY,
United States Senate
Washington, D.C.

DEAR SENATOR: In your letter of July 29, 1957, addressed to the Attorney General, you ask to be furnished the facts that prompted the Department of Justice to present to a United States grand jury certain complaints alleging violation of the constitutional rights of registered voters in five parishes of Louisiana.

These complaints, at the request of the Department of Justice, were investigated by the Federal Bureau of Investigation. As related in my letter to the Honorable EMANUEL CELLER, chairman, Subcommittee No.

[1] 103 Cong. Rec. 13334–13336.

5, of the Committee on the Judiciary, House of Representatives, dated February 21, 1957, the evidence relating to the complaints arising from Caldwell, De Soto, and Grant Parishes was presented to the grand jury sitting in Monroe, La., during the period from January 4, 1956, to February 6, 1957. The evidence relating to the complaints arising from Bienville, Jackson, and Ouachita Parishes was outlined to the grand jury on February 12, 1957. Information relating to the Ouachita Parish complaints has previously been supplied in a statement to the Senate Subcommittee on Privileges and Elections. That statement appeared on pages 237 through 240 of the printed hearings before the Subcommittee on Constitutional rights. The evidence developed by the Federal Bureau of Investigation with respect to the other five parishes, and upon which the presentation to the grand jury was predicated, may be outlined substantially as follows:

BIENVILLE PARISH

In September of 1956 a group of men associated with local citizens councils visited the office of the registrar of voters in Bienville Parish. There were at this time 5,284 white persons and 595 Negroes registered to vote in the parish. The men filed with the registrar purported affidavits challenging the legality of the registration of 560 of the 595 registered Negro voters and challenging the registration of 45 of the more than 5,000 registered white voters. The challenges were purportedly based upon errors which the registrants had made in filling out their registration cards. One of the blanks that applicants for registration were required to fill out was after the item: "My color is ————." Where an applicant used the word "Negro" or "colored" in this blank,

the registration was challenged as irregular. The reason claimed was that an actual color, such as brown, blue, red, or green, would be the only appropriate response. Accordingly, a registrant who has responded with the word "white" would be properly registered but one responding with the word "Negro" or "colored" would not. Other spaces on the card required the registrant to state both his date of birth and his exact age in years, months, and days. An error in this computation by as much as 1 day would be used as a basis for challenge and this despite a ruling by the attorney general of Louisiana that such an error did not render a registration invalid, provided it appeared that the registrant was of legal voting age. On the basis of the challenging affidavits, notices were sent to the challenged voters requiring them to appear within 10 days to prove their qualifications as required by law. When the challenged voters appeared at the office of the registrar, they were told that they could not use as witnesses on their behalf registered voters who had, themselves, been challenged. Such requirement does not appear in the law of Louisiana and the State attorney general has in fact ruled that challenged voters may witness on behalf of other challenged voters. Challenged voters who sought to file affidavits in support of their qualifications were advised that the affidavits must not merely state in general terms that they were qualified, that they possessed the residence requirements, and were legally registered, but would have to include a statement that there were no errors on their original application for registration. Applying the tests used in making the challenges, such an answering affidavit was, of course, impossible. Among the registered Negro voters who were challenged and removed from the rolls were school teachers and other

professional persons of the Negro race. It is interesting to note that with regard to two of the white voters who had been challenged but who objected on the grounds that they would lose their jobs if removed from the voting rolls, the challenges were withdrawn. With this exception, all of the challenged voters failed or were unable to meet the challenge to the satisfaction of the registrar and their names were removed from the roll of voters.

CALDWELL PARISH

Prior to June 1956 there were approximately 3,800 registered white voters and 450 registered Negro voters in Caldwell Parish. In May 1956 two men went to the office of the registrar of voters to examine the registration cards that were there on file. One of these men had recently been an unsuccessful candidate for the State legislature in a Democratic primary. He had stated he felt he lost the election because Negroes had voted against him. The 2 men were permitted by the registrar to file affidavits challenging the registration of 68 of the 89 Negro voters registered for 1 particular precinct. None of these affidavits were verified as required by Louisiana law. The registrar never published the list of the challenged voters in a local newspaper as required by Louisiana law. Notices of the challenges were sent to the challenged voters on June 2 and June 4. On June 12 a city election was held for the precinct in which the challenged voters resided. Although Louisiana law and the statement on the notices themselves allowed 10 days in which to respond to the challenge, and although the 10 days had not elapsed at the time of the election, none of the challenged Negro voters were permitted to vote. Although the registrar certified their names on the list of voters for the city elec-

tion, the clerk refused to give them a ballot when they appeared at the polls. No white voters were challenged nor were [any] prevented from voting. After the election the registrar, when interviewed, admitted that there were irregularities in the challenging of the Negro voters and that he intended to restore their names on the rolls. He did not, however, do so.

In September of 1956 the registrar of voters was summoned to appear before a joint meeting of the parish police jury and the local citizens council. At this meeting he was admonished regarding his manner of running the office of registrar. Shortly thereafter, the registrar, without any challenging affidavits having been filed, sent out citations challenging the qualifications of 266 registered Negro voters in the parish and 12 white voters. The Negro voters were challenged on the basis of supposed errors in their application cards, which cards had originally been accepted by this same registrar. The 12 white voters were challenged because of change of residence. White voters whose cards contained "errors" similar to those appearing on the cards of the challenged Negro voters, were not challenged by the registrar. Negroes who responded to the citations in an effort to prove their qualifications were advised that they would have to have as witnesses three registered Negro voters from the same precinct as the challenged Negro voters and that they would have to be accompanied by a local law enforcement officer to identify them. Challenged voters were unable to obtain a law enforcement officer who would agree to accompany them to the registrar's office for this purpose. One challenged Negro voter who was accompanied by three registered white voters to act as witnesses was told that these witnesses were not acceptable because they were not of the same race as the challenged voter.

None of the challenged Negro voters were successful in meeting the challenge. By the time of the general election in November 1956, only two of them had succeeded in reregistering.

DE SOTO PARISH

At the beginning of October 1956 there were 6,450 registered white voters in De Soto Parish, and 770 registered Negroes. In early October a group of men associated with the Citizens Council of De Soto Parish visited the office of registrar to examine the applications for voter registration which were there on file. These men drew up and filed with the registrar purported affidavits challenging the legality of the registration of 383 Negro voters, and of 4 white voters. The challenges claimed errors on the application cards. Such errors included miscomputation of the age of the applicant in years, months, and days; the misspelling of words, and the use of the word Negro as a designation for the applicant's color. The purported affidavits were not sworn to before the registrar, as required by Louisiana law. On the basis of the affidavits the registrar sent notices to the challenged voters requiring them to appear in his office within 10 days to prove their qualifications as voters in the manner provided by Louisiana law. The statutes of Louisiana set forth a form of affidavit to be used in answer to a challenge. These forms were printed up and supplied upon request to registrars of voters in the parishes. When challenged voters appeared in response to the challenge they were told by the registrar that they would have to file an affidavit stating that there were no errors in their original application cards and that they would have to see a private attorney to have such affidavit drawn up. In no case did he provide a challenged voter with the

form of affidavit supplied by the State. Challenged voters of the Negro race who consulted attorneys in the locality were unable to engage their services. One of the challenged Negro voters did file with the registrar an affidavit in response to the challenge, which affidavit was substantially in the form required by Louisiana law. This affidavit had been signed by four white voters who were registered in the parish. Immediately after this affidavit was left with the registrar the president of the Citizens Council of De Soto Parish contacted the signers of the affidavit and two of them thereafter filed another affidavit withdrawing the affidavit which they had executed on behalf of the challenged Negro voter. One challenged white voter filed, in answer to the challenge, an affidavit substantially in the same form as that which the challenged Negro voter had filed. This affidavit was accepted by the registrar and the challenged white voters' name was retained on the voting rolls. All of the other challenged voters were unable to meet the challenge and their names were stricken from the roll of registered voters.

GRANT PARISH

At a meeting of the citizens council of Grant Parish on October 4, 1956, a resolution was adopted in favor of purging the vote registration rolls of the parish of unqualified voters. A committee was appointed for this purpose. On October 8 and 9 the members of the committee examined voter registration cards in the office of the registrar. They examined only the cards of Negro voters. On the basis of errors found in the cards, the citizens council members filed affidavits challenging the qualifications of 758 of the 768 registered Negro voters. No white voters were challenged. Most of the errors upon which the challenges were based related to the filling out of the line in the regis-

tration cards reading, "I am not now registered as a voter in any other ward or precinct of this State except ———." Failure to fill in the blank or the filling in of it by anything other than the single word "none" was taken as an error. Other claimed errors included the use of the initial "C" to indicate the registrant's color. On the basis of the challenging affidavits the registrar mailed citations of challenge to the challenged voters, allowing 10 days in which to respond to the challenge. In this instance the registrar acted with complete fairness and, in accordance with the law of Louisiana, all challenged registrants who appeared at the registrar's office with three registered voters to vouch for their qualifications were retained by the registrar on the roll of the registered voters. Thus, 489 of the 758 challenged voters were able to meet their challenge. Facts relating to this case appeared on the front page of the Colfax Chronicle of Friday, October 12, 1956, a copy of which is attached hereto.

JACKSON PARISH

In October of last year a group of men called at the office of the registrar of voters of Jackson Parish to examine the application cards of registered voters. Shortly thereafter 2 of the men filed purported affidavits challenging the qualifications of 953 of the 1,122 Negro voters registered in the parish. They also filed affidavits challenging the qualifications of 13 of the 5,450 white voters registered in the parish. The affidavits were filed on the basis of supposed errors in the application card of each registrant. The same types of supposed errors were, on examination, found on the registration cards of white voters who were not challenged. On the basis of the affidavits, notices were sent to the challenged voters, allowing them 10 days in which to respond to the challenge.

Many of the challenged Negro voters appeared in the office of the registrar in response to the challenges. Many of them appeared with witnesses who offered to execute the precise form of affidavit that the Louisiana law provided should be executed in response to a challenge. The registrar refused to accept such affidavit, even though the attorney general of Louisiana has ruled that the execution of such form is sufficient to meet the challenge and entitles the challenged voter to have his name retained on the voting rolls. The registrar advised challenged voters that the answering affidavits would have to swear that there were no mistakes on the original application card. Reply affidavits on behalf of 2 of the 13 challenged white voters were, however, accepted. Affidavits of two Negro voters who had physical disabilities and therefore had not themselves filled out the original application card were also accepted. All others of 953 challenged Negro voters were unable to meet the challenge under the requirements laid down by the registrar. Their names were accordingly dropped from the roll of registered voters.

The United States grand jury sitting in Monroe, La., failed to return any indictments in connection with the cases that I have here reviewed. With regard to the Bienville and Jackson Parish cases, the grand jury, after the evidence developed by the Federal Bureau of Investigation had been outlined to it, expressed itself as not wishing to have any of the witnesses called as there was no real possibility of any indictments being returned.

Sincerely,

WARREN OLNEY III,
Assistant Attorney General.

[From the Colfax (La.) Chronicle of October 12, 1956]

GRANT COLORED VOTERS PURGED FROM ROLLS—MEMBERS OF CITIZENS COUNCIL TAKE ACTION THIS WEEK

Members of the White Citizens Council of Grant Parish worked in the registrar's office this week in a frank attempt to disfranchise the parish's 750–800 Negro voters on the basis of color alone before the November 6 election.

Louis Earle Stevens, secretary of the council, estimates that at least 90 percent of the colored registrations were challenged on the basis of being incorrect or incomplete. Mrs. Horace Mosley, registrar, is sending the challenged registrants duplicate copies of the affidavits and citations requiring them to appear in person in 10 days to prove their right to remain on the rolls.

The action taken in "purging the rolls" followed a Citizens' Council meeting in Dry Prong at which Senator William Rainach of Homer; Representative John S. Garrett of Haynesville, State segregation leaders, and Raymond Masling, executive director of the Association of Citizens Councils of Lonisiana, were present. (Fifty-two persons were present at the meeting held last Thursday, Stevens says.)

According to W. J. B. Jones of Colfax, council president, the group voted unanimously to undertake to clear colored voters from the poll lists.

THEY WERE UNANIMOUS

The decision, if any, was supposed to be taken at a board meeting, Jones says, but when the board meeting was called, following the regular meeting, Rainach urged others attending the meeting to remain.

"They wanted to cut the vote," Jones told the Chronicle, "and the board and the congregation voted unanimously to have it done." Members of the board

at the meeting were Paul Haigler, ward 1, vice president; Ray Fuller and O. J. Lemoine, ward 6; H. B. Garlington, ward 3; J. F. and Cecil Cryer, ward 2; Johnny Kircher, ward 4; Aaron Capps, ward 5.

Stevens says that ward eight was represented by some members, although not by any board member; and that ward seven was the only ward not represented.

COMMITTEE APPOINTED

Pursuant to the vote to cut the rolls, Jones appointed the following committee to attend to the matter: Garlington, chairman; Stevens, Lemoine and Fuller; and Herschel Nugent, Jack Cameron and Virgil McNeely of ward one.

Stevens stresses, however, that the challenges were made by individuals, not by the council. (Most of the challenges being made out in the registrar's office are to be signed by Nugent and Lemoine; others are to be signed by Fuller and Lowe, Mrs. Mosley says.)

CHECKED ONLY COLORED

Monday afternoon and evening the committee members, assisted at various times by Masling, Jones, Frank Stewart of Aloha and Lanny Fletcher, a member of the Dry Prong school faculty, went through the registration cards, checking only those filled out by colored registrants.

In accordance with advice they had been given by the State segregation leaders, they principally relied on three points on the card.

INCORRECT, INCOMPLETE

One statement on the card reads "I am not now registered as a voter in any other ward or precinct of this State except ———." Told that the correct word to put in the blank is "None" the challengers

pulled all cards where the blank was filled in with any other word (such as "Grant," which occurs most often) and certified them as incorrect. Where the blank was left blank, that application was certified as incomplete.

SOME WERE JUST "C"

Where, instead of writing out colored in the indicated space, the applicant simply put "C", the application was certified as incorrect.

If the application was all right up to here, the person's age in years, days, and months (which must be shown) was refigured and often found off by a day or so. (Other points were also checked in some instances.)

ONLY VICTOR ADAMS

In a check made by the Chronicle on Tuesday of the first 100 white registrants in ward one, only one card was found which would pass the above tests — that of Victor Adams. Ninety-five had the incorrect answer, or none, in the blank first referred to. Four (including School Superintendent C. C. Belgard) figured their ages incorrectly.

In a further check made by the Chronicle, not one member of the Citizens Council committee had a card which would pass the tests. Virgil McNeely stated that his color is "w," as did Nugent, Garlington, and Stevens. The others misfigured their ages or gave the wrong answer, or none, to the question about being registered in any other ward.

Lemoine, according to several acquaintances, lives in Colfax in ward 1 but votes in ward 6.

COUNCIL OFFICERS IN DOUBT ON MOVE

"This is the third or fourth time they have pushed us about not doing something about checking illegal.

registration," W. J. B. Jones, president of the Citizens Council of Grant Parish, told the Chronicle this week.

"I've always managed to keep them off before. I thought the right way to do it was to wait until the first of the year, when everyone has to register, and I fought vigorously to do it that way." That way we could have the law complied with by everyone. But they voted unanimously to do it now and I could make no objection."

COULDN'T FIND OUT

Jones said he had been unable to find out why they were so anxious to clear the rolls before the November election. "In fact," he said, "I was on my feet talking about some of the amendments, some of which I think we ought to support, when Rainach took the floor away from me."

(EDITOR'S NOTE.—While nobody seems to be able to give an official answer as to why the rolls should be cleared before the November election, there is a general agreement that both State and National politics are involved. Opposition to Earl Long, opposition to the amendments he is sponsoring and opposition to Adlai Stevenson are all seen as forming at least part of the motive.)

HAIGLER DISAPPROVING

Council Vice President Paul Haigler asked the Chronicle to make it very clear that he had refused to be appointed on the purge committee; that he wanted nothing to do with it; and that he didn't approve of the method used.

Council Secretary Louis Earle Stevens noted that "Some cards were pulled that shouldn't have been—including some that had been filled out by the regis-

trar." To wait for a new registration would have been "basically the best way," he said.

"I think some other organization, somebody that could have afforded to check both white and colored, should have done it," Stevens added. He said he did not know the reason for the hurry.

FILE COPY

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1959

No. 667

UNITED STATES, PETITIONER,

versus

CURTIS M. THOMAS, REGISTRAR OF VOTERS OF WASHINGTON PARISH, LOUISIANA, ET AL.

Opposition and Response to Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

BRIEF FOR CURTIS M. THOMAS, REGISTRAR OF VOTERS, WASHINGTON PARISH, LA.

JACK P. F. GREMILLION,
Attorney General,
Baton Rouge, La.;
M. E. CULLIGAN,
Assistant Attorney General;
WELDON A. COUSINS,
Assistant Attorney General;
HENRY J. ROBERTS, JR.,
Assistant Attorney General,
104 Supreme Court Bldg.,
301 Loyola Ave.,
New Orleans, La.

Montgomery & Co., "The Brief Specialists", 430 Chartres St., N. O., La.

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SUPREME COURT OF THE UNITED STATES

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Opposition and Response to Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

BRIEF FOR CURTIS M. THOMAS, REGISTRAR OF VOTERS, WASHINGTON PARISH, LA.

OPINIONS BELOW.

The United States has correctly informed the Court as shown by its brief on page 1 thereof.

JURISDICTION.

Statement of the United States on page 2 of its brief is correct.

STATUTES INVOLVED.

42 U. S. C. 1971 (R. S. 2004, as amended by the Civil Rights Act of 1957, 71 Stat. 637.)

TITLE 18, LOUISIANA REVISED STATUTES OF 1950, Sections 1, 2, 3, 4, 6.1, 7, 8, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42, 71, 72, 73, 74, 91, 92, 93, 94, 111, 112, 113, 114, 115, 131, 132, 133, 134, 135, 136, 137, 138, 161, 162, 163, 164, 165, 166, 169, 170, 191, 195, 196, 233, 235, 240, 244, 245, 246, 252, 337, 341, 352, 555, 582.

QUESTIONS PRESENTED.

Whether the Civil Rights Act of 1957 is constitutional.

Does the Federal Court have jurisdiction over the controversy here in question.

Where there are valid state laws as to qualification of voters, can a Federal Court injunction supercede the state law.

Whether a mandatory injunction may be exercised to bestow a right to vote on otherwise unqualified voters.

Whether a Registrar of Voters, in the performance of his mandatory duties can discriminate in the performance of such duty.

Whether a Federal Court under the Civil Rights Act of 1957 can collaterally pass on the qualification of a voter for a state election.

Whether or not a Federal Court can mitigate state literacy requirements of a constitutionally valid literacy test.

Whether the judgment of the Federal District Court was erroneous and contrary to the law and the evidence presented.

STATEMENT.

On June 9, 1959, the Attorney General, acting on behalf of the United States and purportedly under the authority granted by the Civil Rights Act of 1947 (42 U. S. C. 1971 (c)), filed an action in the United States District Court for the Eastern District of Louisiana. The defendants named in the complaint were the citizens Council of Washington Parish, Louisiana (the "Citizens Council"); four members of the Citizens Council (the "individual defendants"); and Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana (the "Registrar"). The complaint alleged that certain specified discriminatory acts of these defendants had resulted in the removal from the registration rolls of Washington Parish, Louisiana, of large numbers of Negro citizens who had previously been registered and entitled to vote.

The finding, conclusions and the decree of the District Court can be found at page 158, *et seq.*, of the record.

SUMMARY OF ARGUMENT.

As applied to state action, 42 U. S. C. 1971 (a), (b), (c) and (d) are unconstitutional for the various reasons advanced before this Court in the *United States v. Raines*, No. 64, of this term. In addition, the State of Louisiana presents the argument as to the jurisdiction of any Federal Court to pass upon the qualification of voters of a sovereign state, to such an extent as to set up the qualifi-

cations for such voters. The State of Louisiana advances the argument that as to its citizens, the State and the State alone can set up the requirements as to suffrage as long as those requirements are not an abridgment of a citizen's right under the provisions of the Federal Constitution. That under the law and the evidence presented there is no discrimination against any individuals based on their race, color, or previous condition of servitude. The respondent also challenges the use of mandatory injunction by the Federal Court to collaterally pass on the qualification of its citizens to vote, and the literacy standards prescribed by State Constitution and Statutes, and that the judgment of the Federal District Court was contrary to the law and the evidence.

ARGUMENT.

I.

The Federal Court Does Not Have Jurisdiction Over This Controversy Here in Question.

The original complaint filed by the United States herein states in the first allegation (R. 2) that this action is brought under Part IV of the Civil Rights Act of 1957 (42 U. S. C. Sec. 1971), and further alleges Sub-section (a) of 1971. This Sub-section indicates all citizens of the United States who are **otherwise qualified by law** to vote at any election by the people in any state, territory, etc. It is suggested to the Court that there is no jurisdiction herein for the hearing of the present matter, nor have the complainants shown a right of action against the defendant for reason that the persons on whose behalf this action is brought are not **otherwise qualified by law.** As admit-

ted in the original complaint, all of the parties allegedly aggrieved, had deficiencies in their registration applications. As a result of these deficiencies they were challenged by certain original defendants herein, as a result of which challenges they were sent notifications to appear within ten days to assert their right to remain on the registration rolls despite the challenges. None of these alleged aggrieved parties availed themselves of this privilege during the ten days allowed them by law, nor have they attempted to re-register since that time. Consequently, these parties are not **otherwise qualified by law to vote** at any election by the people in the state. Therefore, even should this Court hold that the Civil Rights Act is Constitutional, which is denied by defendant herein, it is still asserted that this Court has no jurisdiction over the complainants herein under this act for the reason as stated, that the act pertains, particularly Section (a) thereof, only to citizens who are **otherwise qualified by law.**

The Civil Rights Act, under which this action is brought, purportedly finds its authority by the Fifteenth Amendment to the United States Constitution and particularly Section 2 thereof. However, this Court has previously stated that:

> "Beyond a doubt the Fifteenth Amendment does not take away from the State governments in a general sense the power over suffrage which has belonged to those governments from the beginning and without the possession of which power the whole fabric upon which the division of State and national authority under the Constitution and the organization of both governments rest would be without support

and both the authority of the Nation and the State would fall to the ground." *Guinn v. U. S.*, 35 S. Ct. 926, 238 U. S. 347.

This Court has further stated that:

"the right to vote in the states comes from the states; but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by this Amendment but the last has been." *U. S. v. Cruikshank*, 92 U. S. 555.

Also, speaking of the Fifteenth Amendment, it has been said:

"this Amendment does not confer the right of suffrage upon anyone, nor does it secure or guarantee any right of suffrage to any class of citizens. It has no other force or effect than to forbid discrimination by the United States and by the States on account of race, color, or previous condition of servitude." *Lacky v. U. S.*, 107 F. 114.

In speaking of Section 1 of the Civil Rights Act of 1870, the language of which is the same as that of 42 U. S. C. 1971 (a) of Part IV of the Civil Rights Act of 1957, under which this complaint is brought, Honorable Justice Clifford in a concurring opinion in *U. S. v. Reese*, p. 567, said:

"Disability to vote, of every kind, arising from race, color, or previous condition of servitude, is declared by the First Section of that Act to be removed from the colored citizen; but unless otherwise qualified by law to vote at such an election, he is no more

entitled to enjoy that privilege than any white male citizen who does not possess the qualifications required by law to constitute him a legal voter at such elections.

"Legal disability to vote at any such election, arising from race, color, or previous condition of servitude, is removed by the Fifteenth Amendment."

Justice Clifford, speaking further of qualification, says:

"Nothing short of the performance of the prerequisite act will entitle any citizen to vote at any such election in that State, if the opportunity to perform the prerequisite is furnished as required by the Act of Congress.

"Such an offer to perform can have the same effect in law as actual performance, only in case where it failed to be carried into execution by reason of the wrongful act or omission of the person or officer charged with the duty of receiving or permitting such performance; from which it follows that the offer must be made in such terms and under such circumstances that, if it should be received and carried into execution, it would constitute a legal and complete performance of the prerequisite act." *U. S. v. Reese*, p. 569.

Therefore, it is respectfully submitted that unless and until these persons have been qualified to vote by state laws, that there is no right or cause of action under 42 U. S. C. 1971 (a), and that consequently this Court has no jurisdiction thereof.

Webster's International Dictionary defines "qualified" as being.

"1. Possessed of certain qualities or capacities.

2. (a) Fitted by accomplishments or endowments for certain purposes; competent; fit:

(b) Having complied with the specific requirements or precedent conditions for an office, appointment, employment, etc.;"

And further, this same source defines "qualified voter" as being:

"One who possesses certain specific qualifications for voting, especially as to citizenship, age and residence, and sometimes also as to literacy and ownership of property."

It is brought to the attention of the Court that this definition of "Qualified" has been used by the courts in *State, ex rel. Evans, v. Wheatley*, 125 S. W. (2d) 101 and *Peoples v. Palen*, 26 N. Y. S. 225, as well as *State v. Llewellyn*, 167 P. 414, and also in *Trusted Funds, Inc., v. Dacey*, 160 F. (2d) 413, holding that qualified "means more than simply physically and mentally qualified".

The historical background of the Civil Rights Act is bereft with numerous argument pro and con. To the extent that it must be conceded that its drafters took full cognizance of the definition and terminology of every phrase thereof. By careful analysis of the first sentence of Section (a) of 42 U. S. C. 1971, states that:

"All citizens of the United States who were **otherwise qualified by law to vote** at any election by the people in any state . . ."

it is obvious that its drafters recognized the fact that the qualifications of voters was strictly within the realm of the various states to determine.

Under the system of dual sovereignty of the Constitution, Article 1, Section 2, provides that the House of Representatives should be composed of members chosen by the people of the several states and the electors in each state to have the qualifications prerequisite for electors of the most numerous branch of the state legislators.

The Seventeenth Amendment, which was ratified on May 31, 1913, made the same qualifications apply to the United States Senators.

Other than as stated above, there is no Constitutional provision, nor has Congress ever attempted to pass any law setting forth qualifications of voters. The United States Constitution by Amendment Fifteen has simply restricted any discrimination by a state against any citizen by reason of his race, color or condition of previous servitude.

> ". . . the Federal Constitution does not confer the right of suffrage upon any one, and the conditions under which that right is to be exercised are matters for the States alone to prescribe, subject to the conditions of the Federal Constitution . . ." *Pope v. Williams*, 193 U. S. 621, p. 822.

> "Congress did not intend to abolish state laws which prescribe the qualifications of voters, or even to alter them, except so far as they were founded upon the distinction of race, color, or previous condition of servitude." *Ex parte McIllwee*, C. C. Va. 1870, 16 Fed. Cas. No. 8820.

The qualifications to vote in the State of Louisiana are set up in its Constitution by Article 8, Section 1, *et seq.* (see appendix) and its legislature has set up the same Constitutional provisions and the conditions precedent for an elector to become a registered voter and the conditions under which after an elector has become registered, whereby his name must be removed if it is later found that such registered voter has not complied with the provisions of the law. The suit by the Attorney General on behalf of these applicants alleges that your defendant removed 1,377 voters from the rolls but produced documentary proof of only 155 whom he alleges were removed on account of what he termed technical irregularities and deficiencies. But despite the lack of such evidence, the District Court has commanded all 1,377 persons to be replaced on these rolls without any knowledge of their present status, whether living or dead, inmates of public institutions (*i. e.*, mental hospitals, penitentiaries or jails), or no longer having residence requirements, or having any knowledge for the reasons for their removal from the rolls. This evidence, while not in the printed record, is in the form of exhibits which by stipulation form a part of these proceedings. These persons were removed from the rolls over a period from November 4, 1958, to June 16, 1959, and no evidence was offered that any of these persons had attempted to remain on the rolls by observance of conditions of the Louisiana law, nor had any of them taken legal action in the state Court against the registrar of voters and the challengers to prevent their removal, nor had the United States Attorney General brought any action to prevent their removal on account of alleged discrimination. No evidence was offered, that after these complainants were advised that they had not observed the condi-

tions set forth by Louisiana law, that they made any attempt to again register, which they could have done and can still now so do. Since the period of these challenges in the State of Louisiana, Parish of Washington, as alleged in the complaint were between November 4, 1958, and June 16, 1959, and since the filing of this complaint on June 29, 1959, none of these parties have availed themselves of the right to re-register. The removal of their names from the rolls did not prevent them from again registering and observing the conditions imposed by Louisiana law which they had a legal right to do and can still do prior to April 19, 1960, so that no state action taken by the registrar in the removal of their names has deprived them of their right to register and vote in the coming general election on that date. Their complaint is simply that having been once on the rolls, their application form being admittedly erroneous, that the motivating cause of the other defendants herein was because of their color and that because these other defendants did not challenge an equal number of white persons that this constitutes a discrimination and that they therefore should be placed back on the rolls with other persons who may be similarly unqualified. The complaint of the United States Attorney General, in effect, is asking for injunctive relief under the Civil Rights Statutes to enjoin the registrar, in defiance of Louisiana law, not to remove any persons whose legal right to remain on the rolls has been challenged and to perpetuate a nonobservance of the conditions imposed by the Louisiana Constitution and law.

The evidence submitted herein shows that the removal of these names from the rolls was *a fait* ~~a complete~~, and that at the time of the filing of the complaint herein

all of the alleged aggrieved parties had been removed from the rolls, some even as long as five months prior thereto. Therefore, there was nothing upon which an injunction could be based. The decree of the District Court is in effect a mandamus to compel a state official to replace on the rolls persons who have not observed conditions of registration. The District Judge, in order to do so, passed upon the qualifications of these former registrants. These qualifications are strictly a matter of State concern and could be passed upon only by a State Court, which Court would have the right, and the duty to pass upon both State and Federal Constitutional rights, there being no reason to presume that the State Courts would shirk their duty or would be any less zealous in protecting the Federal Constitutional rights than would a United States Court. And should State Courts fail to do so, or make any ruling on Federal Constitutionality contrary to any ruling previously made by this Court, such action would be immediately reviewed by Your Honors. In other words, we contend that before an injunction could issue, the United States Attorney General must allege facts under the Civil Rights Act showing that the persons are "otherwise qualified" to vote by alleging their qualifications and observance of conditions of Louisiana law whereas his complaint in fact shows a breach of observance of conditions in the applications for registration.

II.

42 U. S. C. 1971, Section IV, Is Unconstitutional.

Inasmuch as this action is based upon 42 U. S. C. 1971, which purports to legislate against deprivation of voting rights in state elections, by reason of race, color

or previous condition of servitude, and further that the Judge of the United States District Court, from whence this action emanates, stated in *U. S. v. McElveen*, 177 F. Supp. 357, p. 358:

> "It is admitted by the United States that the Sections of the Act in suit, since they specifically apply to all elections, are predicated on the Fifteenth Amendment."

And that the brief submitted by the United States herein attempts throughout to justify the said Act under the Fifteenth Amendment. The contention of the defendant Registrar herein is that this Civil Rights Act is not appropriate legislation under the said Fifteenth Amendment. For purpose of reiteration, we quote the language of the *Fifteenth Amendment* as follows:

> "Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.
>
> "Section 2. The Congress shall have power to enforce the Article by appropriate legislation."

As was indicated by the Honorable W. N. Hamilton of Maryland, in the United States Senate on May 18th and 19th, 1870 (Congressional Globe, Part 7, Second Session, 41st Congress, page 353), while commenting upon this Amendment, stated:

> "A fair construction of its terms, with a contemporaneous exposition of its meaning and effect, the following propositions may be logically deducted:

"(1) That it does not confer upon Congress any power to establish qualifications of electors in the States.

"(2) That it prohibits the United States from denying or abridging the rights of citizens of the United States to vote on account of race, color, or previous condition of servitude in places where the United States have the power of establishing the qualifications of electors and of regulating elections and the elective franchise, as in the District of Columbia and the territories of the United States.

"(3) That it prohibits the United States from denying or abridging the right of citizens of the United States to vote on account of race, color, or previous condition of servitude within their jurisdictions respectively.

"(4) That in all of the respects the several States have within themselves, and the United States in such places as it has jurisdiction, as I have before stated, in this District and in the territories, the full and perfect power to fix the qualifications of electors.

"(5) That it does not deny or in the least abridge or affect the full and perfect power always possessed, enjoyed, and exercised by the States to regulate their elections and to prescribe the mode and manner in holding them, subject, and subject only to the limitations . . . of the Constitution of the United States, which grants

> to Congress the power to make or alter any regulations made by a State prescribing the time, place and manner of holding elections for Senators and Representatives in Congress - - -."

In all other respects whatsoever the rights of the States to regulate their elections remain to them unimpaired and complete. In fact, the intent and effect of this Amendment were to avoid exclusion from voting by reason of color or race. It means nothing more; it does nothing more. (Congressional Globe, Part 7, page 354.) The Amendment by its very plain wording, is purely negative and prohibitory in its terms; it denies and prohibits the exercise of certain powers.

As was further mentioned by the Honorable W. N. Hamilton:

> "The denial by the Constitution of the United States to the States of the right to exercise certain enumerated powers does not thereby grant to Congress the right to exercise them. The denial to a State is not a grant to Congress. Unless in the Constitution a grant is made to Congress this denial to the State leaves both Congress and the States without the right to exercise such powers." *Cruikshank*, 92 U. S. 555, page 557."

The Honorable Senator Hamilton further advances the idea that:

> "This Amendment speaks to the States; not to the people, but to the State as a body-politic;"

This was recognized by this Court when it stated:

> "The right to vote in the States comes from the States; but the right of exemption from the prohibitive discrimination comes from the United States. The first has not been granted or secured by this Amendment but the last has been." *U. S. v. Cruikshank*, 92 U. S. 555, page —."

and further that:

> "This Amendment does not confer the right of suffrage upon anyone, nor does it secure or guarantee any right of suffrage to any class of citizens. It has no other force or effect than to forbid discrimination by the United States and by the States on account of race, color, or previous condition of servitude." *Lacky v. U. S.*, 107 F. 114, page 118.

It is suggested to the Court that the Civil Rights Act is unconstitutional for reason that it grows out of a negative Constitutional power but in effect and application grants affirmative and substantive rights which are not contemplated by the Fifteenth Amendment. The facts of the instant case, conclusively prove that this is true. Herein we have a group of persons who admittedly are deficient in their qualifications for registration, yet, by use of the Civil Rights Act, the United States and the Court below by its decree, would place these unqualified people back on the rolls and grant to them a right to vote, which is not authorized under the Fifteenth Amendment. It is further submitted that the said judgment of the

lower court, based on the Civil Rights Act of 1957, granted to these particular persons a substantive right because of their color, in the area of qualification where only the State has the right to pass upon this question.

It is further urged that the Civil Rights Act of 1957 is unconstitutional by the scope of Sub-section A thereof. This Section is found in brief of counsel for the United States on pages 2 and 3. However, reference is made to the pertinent part thereof:

> "All citizens of the United States who are otherwise qualified by law to vote . . . shall be entitled to vote at all such elections, without distinctions of race, color or previous condition of servitude; any Constitution law, custom, usage or regulation of any State or territory, or by or under its authority, to the contrary notwithstanding."

This Section paraphrased in its simpliest terms means only that every citizen otherwise qualified to vote in State elections shall be entitled and allowed to vote in such elections, without distinction as to their race, color or previous condition of servitude, **even though there might be a State Constitution, law, custom, usage, or regulation to the contrary, or which might prohibit them to vote because of their race, color or previous condition of servitude, or even though such act of discrimination may have been done by or under the authority of any State or Territory.** There is nothing in this Section which lends itself to the interpretation that the prohibition to discrimination is levied **only at the States.** Further comments were stated in the reply brief for James Griggs Raines, which

was submitted to this Court in matter Number 64 and on page 2 thereof:

> "The scope of the Section is broad enough to cover individual action as well as acts which may be paramount to abridgment or deprivations by a State. This becomes even more clear when Section (a) is read in connection with the first words of Section (c).
>
> "Whenever **any person** has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by Section (a) . . ."

The phrase "any person" is broad enough to include any individual even though he be not a State officer whose acts may be considered denials or abridgments by the State.

The verbiage and context of the Fifteenth Amendment are perfectly clear in asserting that the right of citizens to vote shall not be denied or abridged **by the United States or by any State on account of race, color, or previous condition of servitude**; certainly if it had been the intent of Congress to limit the protection sought by the Civil Rights Acts only to those acts of a State, it could have done so in the same explicit language. The phrase "any person" in Section (c) thereof certainly does not lend itself to a conclusion that it was the intention of Congress to so limit the protection of the Act. And:

> "Thus, it will be seen that, if Section 1971 (c) is Constitutional, it is because of the power given Con-

gress by the Fifteenth Amendment. As stated, that Amendment relates solely to action by the United States or by any State and does not contemplate wrongful individual acts." *U. S. v. Raines*, 172 F. Supp. 552, p. 557.

In his opinion in the District Court, in the *Raines* case, Chief Judge Davis foresaw an exact situation such as we have before the Court today. When speaking of the unconstitutional portion of the Statute he said:

"This indicates that the Statute as written is sufficiently broad to include unconstitutional matter, but that the Attorney General expressed his intention of administering it in such a way as to seek no unconstitutional relief. While this is a noteworthy sentiment, the tenure of Attorney General being what it is, the Courts can hardly rely on his intentions as to the administration of an Act which in itself would purport the grant of unconstitutional relief, if requested." (Page 562.)

In the instant matter, as seen by brief of counsel for the United States herein, pages 22 and 23, the action herein was "triggered" by the issuance of challenges by various private citizens. The brief refers to these persons as "private Attorneys General". While it will be admitted that these persons were private individuals, by no stretch of the imagination can it be concluded that they are Attorneys General. The brief further states that the fact that because these persons searched State records, in a State office, and used a State provided mimeographed form and

under a State Statute, all dealing with the qualifications of voters, that this constitutes these persons "private Attorneys General" of the State of Louisiana, and as such, extending the verbiage of the Fifteenth Amendment, "by any State" through the "color of law theory" to include those people who merely walk into a public building or peruse a public record. Certainly such a conclusion would do severe violation to the opinion of Mr. Justice Frankfurter while concurring in *Snowden v. Hughes*, 321 U. S. *13-17*, when at page 16 the Justice said:

> "But to constitute such unjust discrimination the action must be that of the State. Since the State, for present purposes, can only act through functionaries, the question naturally arises what functionaries, acting under what circumstances, are to be deemed the State for purpose of bringing suit in the Federal Courts on the bases of legal State action. The problem is beset with inherent difficulties and naturally has had a fluctuating history in the decisions of the Court. Compare Mordy versus City of New York, 193 U. S. 430 with Raymond versus Chicago Traction Company, 207 US 20, Memphis versus Cumberland Telephone Company, 218 US 624, with Home Tel. & Tel. Company versus Los Angeles, 227 US 278. It is not to be resolved by abstract considerations such as the fact that every official who purports to wield power conferred by a State is pro tanto the State. Other-

> wise every illegal discrimination by a policeman on the beat would be State action for purpose of suit in a Federal Court."

It is further urged and called to the attention of this Court that:

> "Section (c) creates a remedy against purely private, as distinguished from State, deprivation of voting rights on account of race or color." *U. S. v. Raines*, p. 561.

and consequently is unconstitutional legislation and inappropriate under the Fifteenth Amendment.

Therefore, when the question of Constitutionality *vel non* of a Statute is presented, wherein that Statute has one part which is unconstitutional, this Court has held that:

> "For this purpose, we must take these Sections of the Statute as they are. We are not able to reject a part which is unconstitutional and retain the remainder, because it is not possible to separate that which is unconstitutional, if there be any such, from that which is not. The proposed effect is not to be attained by striking out or disregarding words that are in the Section, but by inserting those that are not now there." *U. S. v. Reese, supra*, 221.

Therefore, Part IV of the Civil Rights Act of 1957 (P. L. 85-315, 71 Stat. 634; 42 U. S. C. Sec. 1971) under which this action is brought is unconstitutional in its entirety.

III.

Under Louisiana Law Registration of an Individual and His Privilege to Vote Are Based on His Meeting the Requirements of the Constitution and Laws of the State of Louisiana.

In order for an individual to participate in elections, either State or Federal, it is necessary that he meet the requirements established by the States. The Constitution of the State of Louisiana and various legislative acts set out the qualifications and requirements that an individual must possess before he becomes a qualified voter of this State. Article 8, Section 1, *Constitution of the State of Louisiana*, 1921, and *Louisiana Revised Statutes, Title 18, Section 1, et seq.*, and *Louisiana State Constitution*, Article 8, Section 17.

A reading of the Constitutional provisions and requirements can be seen that the privilege to vote in the State of Louisiana can be set down basically as follows:

1. A person must obtain the age of at least 21 years of age, and be a native born or naturalized citizen to become an elector;
2. Must meet a resident requirement within the State, Parish, or municipality where he lives, and
3. Must be registered as a voter.

All three elements must be present at the same time an individual applies for registration. If one of the elements are missing, the individual involved cannot, and should not, be declared to be a qualified voter of this State. *Constitution of Louisiana*, 1921, Article 8, Section 3.

Some of the requirements called for under the Constitution and Legislative Acts, such as age, residency, and citizenship, are requirements which can be established by an individual through the production of documents or other evidence. However, the requirements as to being **registered** require the assertion by the individual of doing certain things under the law or constitution of Louisiana to indicate that the individual attempting to qualify as a registered voter has met the specific requirements of the Louisiana Law. Article 8, Section 1-B, *Constitution of the State of Louisiana*, 1921. In order to be a registered voter, one must be able to meet requirements as to character, and literacy. In order to show his ability to read or write or his inability to do so, he must complete, what has been called, a registration form or card or an application for registration, or he must indicate that he is unable to complete this card, or application, completely because of his inability to read or write. In addition to this literacy test, the applicant is required to read any clause in the United States or State Constitution, and give a reasonable interpretation thereof, Article 8, Section 1, of the *Constitution of the State of Louisiana*. However, the failure to be able to read or write does not disqualify a party from becoming a registered voter. Article 8, Section 1, *Louisiana Constitution*, 1921 *(Sub-section D)*. In addition to the literacy and character test the party registering must identify himself. Article 8, Section 1, Sub-sections— *Constitution of Louisiana*, 1921; *L. R. S. A.* 18:233. Therefore, it can be said that any person, even though he possesses qualifications as to age and residency, cannot by these two elements alone, become a voter or a qualified voter, unless he does the third and additional step, that is, **BECOME A QUALIFIED VOTER, BY COMPLETING**

THE REGISTRATION APPLICATION FORM, AND TEST AS OUTLINED BY THE CONSTITUTION AND STATUTES. Therefore, the most important step in becoming a voter is that of **MEETING THE REQUIREMENTS OF REGISTRATION.** In addition, to the requirements set out in the Constitution of this State, the Legislature of the State has, in its wisdom, supplemented constitutional provisions under the mandate given to it by the Constitution. *Constitution of Louisiana*, 1921, Article 8, Section 17.

In the Louisiana Registration Laws, an effort was made to make the process of voting as simple and as easy as possible. For instance, it is not necessary, at this time, to indicate party affiliation, in order to become a voter in a primary, although the failure to do so will prevent an individual in participating in a party primary. *Louisiana Revised Statutes Annotated*, Title 18:33; *Constitution of Louisiana*, 1921, Article 8, Section 4. A registered voter can apply for a duplicate certificate in the event a certificate is lost. *Louisiana Revised Statutes Annotated*, Title 18:582. The Louisiana Laws, insofar as requirements for registration are concerned, are liberal and the administration of the law is fair and equitable.

REGISTRAR OF VOTERS:

The Constitution of Louisiana sets up a Board called the Board of Registration which is composed of the Governor, Lt. Governor, and the Speaker of the House of Representatives and gives the power to any two members of the Board to remove a Registrar. *Louisiana State Constitution*, Article 8, Sub-section 18, of 1921. It can be said that the governing authority in a Parish can appoint

the Registrar of Voters, except for Orleans Parish, where the Governor has the authority to appoint the Registrar. *Louisiana Revised Statutes*, Title 18, Section 1. A Registrar holds his office during good behavior, however, is subject to removal by the Board of Registration. Article 8, Section 18, *Louisiana State Constitution*, 1921; *L. R. S. A.* 18:3. The Registrar must be a registered qualified voter of the Parish of which he is to perform his duties. *Louisiana Revised Statutes*, Title 18, Section 2. He must also qualify by taking a necessary oath of office and depositing the proper bond before the proper authority. *Louisiana Revised Statutes*, Title 18, Section 4. The Registrar is allowed to have certain deputies, clerks, and other people to assist him in his work. *Louisiana Revised Statutes Annotated*, Title 18, Sections 7 and 8. It is interesting to note here that the law of the State of Louisiana, insofar as registrars are concerned, is based on the theory of maintaining the Registrars of Voting, as best as possible away from political activities. A Registrar is prohibited from any political activity while acting as a Registrar and his employees are under the same mandate. *Louisiana Revised Statutes Annotated*, Title 18, Section 6:1.

RESPONSIBILITY OF THE REGISTRARS OF VOTERS:

It should be first brought to the attention that the Registrar of Voters operating under the Louisiana Laws is operating under mandatory provisions. Where the law itself imposes a duty upon the Registrar to do or to refrain from doing an act, such duty is to be considered mandatory. *Louisiana Revised Statutes Annotated*, Title 18, Section 196. In other words, the theory of the Louisiana Law is that the provision and actions are mandatory.

Louisiana Revised Statutes Annotated; Title 18, Sections 31, 35, 36, 37, 38, 39, 40, 41, 42, 71, 72, 73, 74, 91, 92, 93, 94, 111, 112, 113, 114, 115, 131, 132, 133, 134, 135, 136, 137, 138, 161, 162, 163, 164, 165, 166, 169, 170, 191, 196, 252, 337. *Louisiana State Constitution*, Article 8, Section 16; see *Ventre v. Ryder*, D. C.-La. (1956), 176 F. Supp. 90. Thus, the Registrars of the various Parishes, including the Registrar for the Parish of Washington, under every section of the law, which indicates to them what their duties and responsibilities are mandatorily required to act, and in no sense of speaking does the Registrar have any discretion in his capacity as Registrar. *Louisiana Revised Statutes Annotated*, Title 18, Section 196; *Lorio v. Sherburne*, 122 La. 434, 47 So. 760 (1908).

REGISTRATION SYSTEM:

There are two types of registration systems in the State of Louisiana. One is a system whereby registrants are required to register every certain number of years, and one is a system which is called permanent registration. Permanent registration is the system which is presently maintained in Washington Parish. (Tr. p. 58.) Under this system of registration (which exists in the Parish of Washington), once a party has become a "qualified registered voter", assuming that the party is not challenged from the registration rolls for cause (*Louisiana Revised Statutes Annotated*, Title 18, Sections 215, 132 and 133), or assuming that the person does not die or become a felon, or refuse to participate in election for a period of time (*Louisiana Revised Statutes Annotated*, Title 18, Section 42), the individual named shall continue upon the rolls as a qualified registered voter. In other

words, the permanent registration system is to eliminate the necessity of an individual having to register every number of years. The advantage of this system is to make, again, the procedure of voting as simple as possible for any individual, so that more people will participate in the activities of their State by casting their ballots. The important thing to point out, at this time, is that insofar as the registration system in Louisiana is concerned, in this particular case there is no conflict in systems such as permanent as opposed to temporary registration. Because, the **registration application blank** that a party must complete to be a "qualified registered voter" is the same under both systems. The same qualifications to become a registered voter pertains under both systems. Under permanent registrations it is important to note, at this time, that the Registrars of Voters of various Parishes are under a mandatory duty to keep their rolls current and up to date with only qualified voters. The Registrars are required to make periodical checks of their registration polls to accomplish this purpose. *Louisiana Revised Statutes Annotated*, Title 18, Section 165.

APPLICATION FOR REGISTRATION:

As a part of the procedure to become a registered voter in the State of Louisiana one must meet the conditions and requirements as outlined by the Constitution and the Statutes of the State. *Louisiana State Constitution*, 1921, Article 8. Section 1, Sub-paragraphs C, D and E, *et seq.* It will be noted at this time that in the Constitution there is the requirement as to character and literacy. There is also in the Constitution a form with respect to the application for registration *(Louisiana State Constitution*,

Article 8, Section 1 (C), and a form in the Louisiana Legislative Acts as to the application blank for registration (*Louisiana Revised Statutes Annotated*, Title 18, Section 31). Therefore, the Constitution and the Legislature have sanctioned the use of the application blank for registration. The point to consider, at this time, is that the issue before the Court, as the State of Louisiana understands the situation, is **not** that the application form for registration requirement under the Constitution and laws is unconstitutional. No question has been raised by the Government in any of its pleadings as to the unreasonableness of the form in question, or as to the questions asked in the application blank, or any other indication which would give the matter in question an **unconstitutionality basis.** Therefore, it can be assumed that there is no question but that the government believes that the application for registration as required by the Louisiana Constitution and Louisiana Statutes is constitutional in form and in fact. There is no question from the government as to the so-called literacy test which the Constitution of the State of Louisiana required, and its fulfillment of the said test by the completion of the application for registration which appears in both the Constitution and State laws. *Lorio v. Sherburne*, 122 La. 434, 47 So. 760 (1908); *Bishop v. Sherburne*, 122 La. 429, 47 So. 759; *State, ex rel. Woods, v. Theriot*, 124 La. 847, 50 So. 770 (1910); *Smith v. Dardenne*, 129 La. 835, 56 So. 905 (1911); *Darby v. Daniel*, 168 F. Supp. 170 (U. S. D. C.-S. D.-Mississippi) (Nov. 1958), p. 183; *Lassiter v. Taylor*, 152 F. Supp. 295 (U. S. D. C.-N. C. (1957), p. 297.

It can, therefore, be said that the ability of any individual to complete the application for registration.

complete and without error, or his ability to show that he is unable to read or write are the final steps and the very necessary steps to becoming what the State of Louisiana calls a "qualified registered voter". *Louisiana Revised Statutes*, Title 18, Sections 31, 32; *Louisiana State Constitution*, 1921, Article 8, Section 1 (b) and (c). This final step is the one which is absolutely necessary in order to become a registered voter of the State. The Registrars of the State are guided by the requirements under the Constitution and Statutes and as have been pointed out previously, these duties are mandatory. The importance of the application for registration can be found in the new permanent registration voter system, under which Washington Parish has been placed since May of 1958 (Tr. p. 40). The records which must be kept by the Registrar of Voters are as follows:

> A master record file, a precinct register and duplicate precinct register, and a closed and disqualified file. *Louisiana Revised Statutes Annotated*, Title 18, Section 235.

Under permanent registration, in addition to the steps outlined in the Constitution and Legislative Acts, one must complete one more step, that is, he must sign his application for registration in the precinct register and the duplicate precinct register. The Registrar then maintains the following files in his office:

> The master file, which contains the "original registration application *(Louisiana Revised Statutes*, Title 18, Section 235), which shows that under the permanent registration the application for registration again is a very important document and is

one which must be maintained by the Registrar of Voters. The Certificates of Registration or application for registration are filed in the Registrar's office alphabetically by surnames. *Louisiana Revised Statutes*, Title 18, Section 235, Paragraph 3.

The application for registration is not a document which is to be taken lightly as to its significance in Louisiana Law. There are no Louisiana Laws which discriminate against any individual based on his particular color, creed, religion or previous condition of servitude.

People who have been accepted by a Registrar as duly qualified voters, as long as they remain on the rolls as duly qualified voters, may participate in various elections, primary or general elections and, of course, are not subject to the removal, except for the condition that they may be challenged for specific reasons at the time and at the place that they cast their ballot. *Louisiana Revised Statutes Annotated*, Title 18, Section 352, for challenging under primary law, and Section 580, general election.

In addition to the fact that an individual may be challenged at the time he cast his ballot, the Louisiana Law has taken adequate measure to protect the rolls of registered voters from becoming cluttered up with illegally or wrongfully or fraudulently registered people. When a registration system is permanent, there must be some system set up in an effort to allow the machinery of either the law or the Courts to make an effort to keep the rolls in its most current position. The primary duty under a permanent registration system of maintaining the rolls is good order and keeping illegally registered

people off of same lies with the Registrars of Voters. *Louisiana Revised Statutes Annotated*, Title 18, Section 165; *Louisiana Revised Statutes Annotated*, Title 18, Sections 132 and 134.

THE SYSTEM OF "CHALLENGING":

If a Registrar of Voters for the State of Louisiana complied with the mandatory provisions of the laws, he would (under *Louisiana Revised Statutes Annotated*, Title 18, Sections 165 and 241) periodically conduct a survey of his rolls which would indicate to him whatever facts necessary to enable him to remove from the rolls those people who do not fit into the category of qualified registered voters. Several reasons are apparent as to why the Registrar is given this mandatory responsibility. It is possible that a person who is a Registrar will not perform his mandatory functions under the law and, therefore, a new Registrar has the power to be able to check the records of the Parish and determine the status of the rolls. However, the Louisiana law goes a step further in checking its public officials in its Registration Voters System. The State of Louisiana gives to individual bona fide registered voters an opportunity to call to the Registrar's attention the names of people who have been voting illegally or who have been fraudulently placed "upon the registration rolls". *Louisiana Revised Statutes Annotated*, Title 18, Sections 132, 133 and 245. Under this procedure any two bona fide registered voters of a Parish may sign an affidavit, signed and sworn in duplicate, and file same with the Registrar or his deputy, giving certain information which they tend to believe has made an individual "illegally registered". *Louisiana Revised Statutes Annotated*, Title 18, Sections 133 and 245.

It should be noted that the two sections of the law, heretofore referred to (*Louisiana Revised Statutes Annotated*, Title 18, Sections 133 and 245) are statutes whereby individuals are allowed to call to the attention of a Registrar facts about a registration which he may not know of his own knowledge. The operation of these two statutes bring us to the point of no return insofar as this problem is presented to the Court, and the Louisiana Supreme Court. It is necessary to point out the procedure used when a challenge is issued under Section 245 of Title 18, *Louisiana Revised Statutes Annotated.*

First, two bona fide registered voters make out a written affidavit in duplicate, signed before the Registrar or his deputy; in this affidavit they advise the authority that certain individuals are illegally registered or have lost their right to remain on the rolls.

Second, the Registrar "shall immediately" or in any event, within forty-eight hours, advise the people so found, of the facts indicated by the challengers.

Third, the affidavit alleging the defects in the registration together with a citation, is mailed to the individual at his registered address.

Fourth, the party in question is cited to appear before the Registrar or his deputy, within ten days from the date of mailing and then "prove their right to remain on the registration rolls by written affidavit of three bona fide registered voters." (See *Smith v. Flournoy*, 115 So. (2d) 809.)

Fifth, the Registrar must publish a notice of the individuals by names, indicating their ward and precinct, not more than five days after mailing the notice or notification affidavit in question.

Sixth, failure of the individual, whose registration has been illegal to answer the affidavit and prove that he should remain on the roll, causes his name to be removed from the registration rolls.

Seventh, under the permanent registration system his name is then placed into a file designated as "closed and disqualified file" *(Louisiana Revised Statutes Annotated,* Title 18, Section 235 (3)). This file consists of the registration record of all registrants which have been disqualified for any reason. When a party has been disqualified, the Registrar moves the registrant's record from the master file and certificates of registration from the precinct register and places these records and certificates in a separate file, to be designated as "closed and disqualified files." These cards are filed alphabetically and before cancelling the said card, the Registrar marks in red ink "cancelled," the date and the reason for cancellation, and then affixes his signature. *(L. R. S. A.* 18:246.) That is the operation of the statute in question and this is the procedure contested:

1. That the individual petitioners were at one time classified as "duly qualified, registered voters" by a Registrar of Voters of the State of Louisiana.

2. Under a specific date petitioners were challenged in their position as to remaining duly qualified registered voters by the filing of an affidavit by the mailing of a citation, indicating specific reasons why their right to remain a registered voter on the rolls of Washington Parish had been questioned.

3. The reasons set out in the affidavits are clearly distinguishable in the application blank itself.

The individuals challenged have recourse by answering the citation and proving to the registrar upon the affidavit required that they are in truth and in fact, still a duly qualified voter. Thus, if the affidavit indicates that a registrant is no longer a legally registered person, because he misspelled a particular word, or figured his age wrong, etc., the challenged party may come in and disprove the affidavit. If they disprove same he is reinstated. (*Louisiana Revised Statutes Annotated*, Title 18, Section 240 (3)). Assuming, for the sake of argument, that a challenged individual appears either in person under the challenged requirements and attempts to disprove the affidavit and register and is refused the opportunity of becoming a registered voter, the person can file a mandamus suit against the Registrar, which suit is directed to a District Court of the State, is given preference over all other cases, before a jury of twelve, and without cost. (*Louisiana Constitution of 1921*, Article 8, Section 5; *Louisiana Revised Statutes Annotated*, Title 18, Section 138) and *Ballard v. Puleston*, 113 La. 235, 36 So. 951 (1904). Therefore, a party denied registration CAN APPLY to the local Courts for relief. Assuming, for the sake of argument, that in complying with the law in

question, and assuming that the individual has lost his case under the Constitutional provision, the individual can still become a member of the qualified voters of Louisiana by applying personally to the Registrar of Voters of the Parish, applying for registration as if he were a new applicant registering for the first time.

An individual who is denied what he believes is a right belonging to him of registration can adequately receive remedy through the vehicle of the State Courts.

The United States Government takes the position that the parties in question and other individuals have been challenged and sought to be removed from the registration rolls of Washington Parish, because of the one fact that the people involved were of a particular race. It is the contention of the Government that because **of that fact alone** they were removed from the rolls of registered voters under the challenges.

Inasmuch as the Government has alleged discrimination it behooves the Government to prove by a preponderance of the evidence that the sole and only reason the petitioners were removed was because of the fact that they were members of a particular race, and that there were no other reasons used to remove these individuals from the qualified voters role of Washington Parish.

The fallacy of the argument of the United States Government is in its admission in their allegation No. 10 (Tr. p. 3) that in truth and in fact the people who were challenged did have errors in their **application for registration.** However, the Government takes the position that these errors were minor errors and deficiencies, there-

fore, should be ignored; that the only reasons these people were not maintained on the rolls was because of the one fact that they were members of the Negro race.

If the Government's position is correct they have said in effect that the character and literacy test required under the Louisiana State Constitution is of no effect. Nothing could be further from the law. Interestingly, the Government has not attacked the application for registration form, nor any of the questions asked on the application for registration form. However, their conclusion that the mistakes made were minor, implies that the literacy test set up by the Constitution of this State for every individual is of no avail. This argument by the Government is of no moment under the present jurisprudence. *Guinn v. United States, supra.*

The Louisiana Supreme Court has, on a number of occasions, along with Federal Court, held that the constitutional test (literacy) ". . . was not intended as an idle form, it was the result of the most serious and protracted deliberation. . . ." *Bishop v. Sherburne*, 122 La. 430, 47 So. 759 (1908). In this case an applicant had filed a mandamus proceeding seeking to become a registered voter; having failed to complete his application for registration the Court had this to say at page 760:

> "Upon the case presented, it appears that the registration of relator was properly refused. The Constitutional test was not intended as an idle form, it was the result of the most serious and protracted deliberation, in the convention by which the Constitution was framed, and was intended by that body to be literally complied with, which is evi-

denced from the language and particularly the requirement of the article in which it was incorporated. The applicant "shall demonstrate" his ability to read and write, not by reading or writing anything that he may choose but by reading and filling in the blanks, in the prescribed form, 'ippissimis verbis' by the Constitution itself, the doing of which requires, not only the ability to read and write, but likewise intelligence sufficient to enable the applicant to compute, at least the number of years, months and days of his life. In the instant case, the applicant came into the office to register as one who could comply with these conditions, he made his application on another basis."

The same position is taken by the Court in *Smith v. Dardenne*, 129 La. 837, 56 So. 905 (1911); also *Trudeau v. Barnes*, 65 F. (2d) 563, (C. A. A., 5th) (1933); *Lorio v. Sherburne*, 122 La. 434, 47 So. 760 (S. Ct.) (1908); *Guinn v. United States*, *supra*; *Williams, et al., v. James H. McCulley*, 128 F. Supp. 987, (U. S. D. C., W. D. La.) (Jan. 1955).

The Supreme Court has, on a number of occasions, upheld the literacy tests in other states. *Lassiter v. Northampton Election Board*, 360 U. S. 45 (June, 1959); *Lassiter v. Taylor*, 152 F. Supp. 295.

The State of Louisiana has traced:

The registration laws of the State of Louisiana, which is the ultimate in determining whether or not a party has become a "duly qualified registered voter of the State." It has also shown the mandatory duties of

a Registrar, under either a permanent system or a temporary system of registration, and it has been shown that the system of law is set up to protect each and every individual, whether that individual be a public official or citizen.

There is nothing whatsoever in the laws which violates any of the prohibitions set out in Amendment Fifteen. The registration qualifications test, under the Constitution and Legislative Acts, is applied to all parties regardless of their race or color.

Any person, under the State law and under the Constitution, can take the same means to have any individual, whom he believes to be illegally registered, stricken from the rolls. (See Article 8, Section 5, *Louisiana Constitution*, second paragraph, and *Louisiana Revised Statutes*, Title 18, paragraphs 134 and 245.)

All qualified voters have an opportunity to seek removal from the rolls any illegally registered people; these challenges are open to all who are bona fide registered voters.

If the District Court's judgment is upheld an individual cannot, under any of the State laws, file a challenge against any other individual. The State and the State alone has the right, under the United States Constitution, to declare the qualifications of any individual in order for him to qualify as a registered voter. *Guinn v. United States*, 238 U. S. 347, 362. The only thing that the Fifteenth Amendment adds is that a person must not be disqualified **SIMPLY BECAUSE** he is of a particular race. The ultimate end, if this Court should uphold the

lower Court decision of issuing an injunction against the Registrar of Voters, is that once a person becomes a registered voter, nothing could be done to remove his name from the registration rolls. In effect, the entire challenging system, under the registration laws of the State of Louisiana, would be in jeopardy and would amount to the Federal Government taking over the realm of State's activity.

It is interesting to note that at this very same time the Congress of the United States is presently debating the removal of the State restrictions to voting insofar as poll tax requirements are concerned. There is no poll tax in Louisiana. *Constitution of Louisiana*, 1921, Article 8, Section 2. In this effort **even the Congress** of the United States believes that the realm involving the matter of poll tax is within the **sphere of State sovereignty**; and that the only way it can be removed would be through constitutional amendments voted on by each individual State. Therefore, can a Federal Court hold that it can set the requirements for the qualification of voters, whereas the Congress of the United States has declared that it cannot set qualifications for voting insofar as State matters are concerned?

This goes without saying that the Federal Court would want Registrars of Voters and challenging individuals never to possess the initiative to search the rolls and determine what people should be removed from same. It is submitted that the Federal Court and Government cannot take the position of controlling provocation of voters and cannot decide that there is, or ever was, any discrimination, under the evidence introduced in this matter.

For argumentive purposes, the mere fact that a thousand Negroes were challenged and only one white person challenged does not in itself indicate discrimination against an individual based on race or color alone if, **in fact,** the individual so challenged, does have an error or mistake in his application for registration.

In spite of the allegations glowingly made by the Government, and in view of the theory set out in Civil Rights Acts, and assuming for the sake of argument that this theory is to get qualified voters upon the roll, it is wise to look at the present facts and decide as to whether or not all the facts put together amount to discrimination based on race and color alone. The United States Government has indicated that it has shown discrimination based on race or color alone and at the same time admits that mistakes or errors were made in the application for registration.

It is very interesting to note, at this time, and is submitted to this Court to determine from the factual situation of the exact procedure and time element involved in the present matter. These are several facts which now exist in the present case. The United States Government, in and for the behalf of petitioners filed a suit under the Civil Rights Act of 1957. Thereafter, the matter was tried and submitted. A judgment was issued by the Federal District Court for the Eastern District under date of January 11, 1960. This matter was appealed to the Fifth Circuit Court of Appeals and then to this Honorable Court. Up until the **very day,** the **very minute,** as a

glance of the clock will indicate, that this matter is now being tried, very few, if any, petitioners have tried to get back on the rolls. (Tr. p. 53.) It is interesting to note that during the time that the suit was filed (June 29, 1960), over 200 days have transpired and during that time the State of Louisiana has held two very important Democratic primaries and at no time during this period have the people involved attempted any procedure whereby they could get back on the rolls as registered voters.

The procedure is simple and set out in the law in an effort to prohibit discriminatorily removing a man from the qualified registered rolls. The individuals so challenged have the administrative provisions under the Revised Statutes for becoming qualified voters. They have the privilege of filing a suit against the Registrar if the Registrar refuses to register them. And, of course, they have the right of completely reregistering again and becoming members of the voting society of the State. Therefore, there are three avenues left for the individuals to allow them to get back on the rolls. It is of no moment here for the Government to say that this puts an additional burden on these people solely because they are of a particular color. The Government knows that there is nothing further from the facts and the law in this case. Had there been **NO MISTAKES** on the application for registration, it could easily be argued that these people were disqualified simply because of the fact that they were of a particular color. However, these are not the facts in this case (readily admitted by the Government) when the Government admits in their allegation that they were in truth

and in fact defects but that these defects were of a minor nature. The Federal Court has set itself up to determine that if you forget to cross a "T" it is a minor mistake but if you let the "T" out it may be a major mistake. It seems that the Government's motion to stay the vacate order of the Fifth Circuit Court of Appeals with the theory that the individuals involved have to participate in a general election of April 19, 1960, in the State of Louisiana is without merit. It is with extreme interest that this matter be brought to the attention of the Court because, as this Supreme Court has ruled on its various cases in which is alleged in those one-party States as the State of Louisiana, that the primary elections are tantamount to a general election and the election of the individual to the seat that he seeks. The Democratic party in the State of Louisiana has already held two primaries in which these individuals were not participants. Nothing has been done by the individuals or by the Government to facilitate the matter of placing these people back on the rolls as registered voters.

Therefore, since registration qualifications are a matter of State action, and in Louisiana the application for registration is the intelligence test, no Federal Court can determine that the making of minor mistakes on the intelligence test can be ignored. Only the State of Louisiana can pass on the qualifications of registered voters.

The action of the Federal Government should, therefore, be dismissed.

IV.

The Acts of the Registrar of Voters for the Parish of Washington Are Mandatory Under Louisiana Law, Revised Statute, Title 18, Section 245, and in Complying with Said Statute Did Not Discriminate Against Any Individual Solely on the Basis of His Race, Color, or Creed, or Previous Condition of Servitude.

The United States Government, in allegation No. seven of their complaint, states:

> "It is made mandatory by said statute (Louisiana Revised Statutes Annotated, Title 18, Section 245) that, upon the filing of such affidavits, the Registrar shall notify . . .".

This statement by the Government in their pleadings shows that there is no discretion on the part of the Registrar. The Government readily admits that it is necessary, under the Louisiana Statute, that the Registrar **must act in a mandatory way.** *State, ex rel. Woods, v. Theriot, supra.* However, the District Court, in paragraph 4 (page 162 of the Transcript) comes to the conclusion that the defendant Registrar "in giving effect to the mass challenges . . . . achieved a discriminatory result in violation of **his duties** under the Fifteenth Amendment." This conclusion by the Court means that the Court has determined that the only basis for the removal of the individuals in Washington Parish, who are Negroes, was the **one** fact that they were Negroes. However, it misses the intent of the constitutional provisions and statutes quoted as to the authority in becoming a "qualified registered voter" in the Parish of Washington.

It would seem that this Court, in order to show violation of the Fifteenth Amendment, must find that the challenges which were issued to the Registrar, and upon which he acted under his mandatory duty under the law, were issued **solely** because and only on the fact that the parties so challenged were members of the Negro race. A reading of the record indicates that this did not occur. A mere reference to the registration application, issued and allegedly completed by the people named in the suit will on the face show mistakes.

On the face of the evidence introduced by the Government the petitioners concerned and people in a like situation did in truth, and in fact, and in law, have a mistake upon their application for registration.

The only duly constituted officer to serve in the position of accepting these challenges is the Registrar or his deputies. Individuals, while they have the right under both the Constitution and the legislative acts to proceed and call to the attention of the duly constituted officer the fact that there are illegally registered people on the rolls, the only **one** with authority **to issue** the challenges is the Registrar or his deputies. Here it should be pointed out, however, that under no circumstances does the challenging individual have the authority to remove anyone: in effect, **it is the challenged individuals themselves which cause their removal by their inactivity to answer the challenge.** Consequently, as a practical matter, the individual removes himself from the rolls. While the Registrar makes the final move, if the challenged individual has not appeared to remedy what is alleged to have been a defect. he merely resorts to such removal because of the inactivity of the individual involved.

While citing the mandatory duty of the Registrar the Government contends that the Registrar knew or should have known because of the number of persons challenged that the intent and purpose of the challenges were to remove only Negroes from the roll, and because **he knew of this intent** he participated in an action which had a discriminatory result and violated his duties under the Fifteenth Amendment. In other words the Government concluded that this was a conspiracy by the Registrar and individual citizens to remove the Negroes in question.

Of course the history of suits filed in Washington Parish, from what the record will reflect, indicates that this could be no further from the truth than in law, from the theory of the Government's suggestion, that there was discrimination on the basis of color in this matter. As the record will reflect, in 1950 a judgment was entered against the Registrar, decreeing that he should not refuse to register anyone because of their race or color. The Registrar for eight years participated with no legal action whatsoever. Then some individuals approached him and indicated that they were going to make a series of challenges of the people on the registration rolls.

Defendant Registrar sought, after a refusal to grant the challenges, a statement and expression of the position he should take under the Louisiana law. As the judgment will reflect from the record the Louisiana District Court stated that the Registrar had the mandatory duty to accept the challenges and not to question the validity of a challenge once the affidavit was given to him. Abiding by that judgment, the defendant

Registrar proceeded to receive the challenge, issued them, and then have the United States Government, under the Civil Rights Act, proceed against him. If there is any conspiracy in this particular action, then it surely cannot be said to be a conspiracy between the members of the State and others to effectuate the removal of the Negroes from the rolls.

The fallacy of the Government's argument is that they must **admit** that they were in truth and in fact errors upon or in the making of the application of the petitioners. But they take the position that the defects or deficiencies are **minor.** HOWEVER, THAT IS NOT THE QUESTION BEFORE THIS COURT. This Court cannot tell the State of Louisiana, in qualification as to voters, what is or what is not a minor mistake. The important thing here is that the Louisiana law does in truth and in fact give a right to call to the attention of the proper authorities the fact that a person is illegally registered upon the rolls.

There would be no question and no cause for this action if the application for registration contained no errors or mistakes. In that case there would be on the face of the mere challenge discrimination. But again these are not the facts in this case. The State asks, did the defendant Registrar have the responsibility, under the law, of maintaining the rolls in question up to date and correct? The State suggests that the answer should be "yes."

There is no evidence to show that the Registrar of Voters did not accept challenges against white people. Consequently it must be concluded that he administered

the law equal to all. And "Federal Courts . . . are not at liberty to impose on state and local authorities their conception of what constitutes proper administration of their offices, so long as there is no discrimination and the laws are equally administered." *Williams v. McCulley*, 128 F. Supp. 897, 899.

V.

The Judgment of the Federal District Court Is Erroneous and Contrary to the Law and the Evidence Presented.

As will be shown by the Transcript of Record the judgment of the District Court, beginning at page 158, decrees injunctive relief to petitioners or people situated similarly and endeavors to enjoin the Registrar of Voters for the Parish of Washington from entertaining challenges from individuals wherein the challenges have for their purpose the discrimination against an individual based upon his race, color or creed and in contravention of the Fifteenth Amendment of the Constitution of the United States.

The State of Louisiana filed a notice of appeal and a request for a stay order from the Fifth Circuit Court of Appeals, because of the extreme importance of the ruling of the District Court of the United States. And because the Registrar is of the firm belief that the District Judge has erroneously decided this matter contrary to the law and the evidence presented to the Court.

To determine the inability of the District Court to grasp the significance of the facts and evidence, it is necessary to search the judgment of the District Court,

and indicate how unlegalistic, and how unworkable the judgment as issued by the District Court appears to the Registrar. In essence, it can be said that the judgment is against the Registrar of Voters in and for the Parish of Washington enjoining him from doing various things:

(a) From giving legal effects to approximately 1,377 challenges. (See Transcript of Record 158 for complete text.)

(b) From permitting the names of any of the approximately 1,377 persons challenged to remain off the rolls.

(c) From doing anything hereafter on challenges filed in the Registrar's office which have "for their purpose or effect discrimination based on race or color."

Then the judgment orders that the Registrar advise the Court of compliance as stated in its paragraph 3(b). Then the District Court orders that the Registrar "keep and maintain, from and after February 1, 1960, a tabulation showing the number of registrants of each race whose right to remain on the registration rolls of Washington Parish is challenged. If, at the end of any three month period thereafter, more than five per cent of the registrant of any one race shall have been challenged, he shall within ten days thereafter, submit to this Court a detailed report in writing concerning such challenges, giving the bases thereof, and indicating whether the same or similar bases of challenges appear in the record of other registrants."

In its conclusion of fact the Lower Court, in number 15, (page 161 of the Transcript), concludes that the

Negroes herein were deprived of being a qualified voter solely because of their race or color. However, this is in contradiction with his conclusion (Tr. p. 160), No. 12, wherein the Court admits the defects of deficiencies in the registration cards, such as misspelling, deviation from printed instructions, failure to compute age with exact preciseness, and illegible handwriting. The Lower Court then concludes that it will disregard these mistakes and deficiencies in the applications for registration and will not even entertain the fact that they existed, and indicates that the people involved were removed **solely** because they were members of the Negro race. It is questionable as to how the District Court can (1) assume that the people involved were discriminated against solely because of their race, and yet at the same time acknowledge that there were errors or mistakes on the applications. The Court did not hold, nor could they hold, that the application for registration was in a form which is unreasonable, as a means for an intelligence test. The Court did not take into account that the problem involved is one touching the entire registration system in the State of Louisiana.

There are several interesting challenges brought out by the judgment of the District Court:

(1) That the District Court has, without any Constitutional provision before it, indirectly declared unconstitutional, not only one law, but the entire registration system of the State of Louisiana. Because, if the District Court is right (which is denied) and the mistakes made in the application are to be disregarded, it has held indirectly that the application form cannot be used as a form of intelligence test. This

would be contrary to the holding of the State Supreme Court of Louisiana. *Bishop v. Sherburne, supra.* This holding would also mean in effect that no one can challenge a Negro applicant who has such a defect in his registration application — as misspelling — failure to compute the date of his birth—deviations from printed instructions and illegible handwritings. Therefore, it is conceivable that any Negro who attempts to register and makes any of the above errors cannot, under this judgment, be refused registration.

(3) Under the District Court's judgment, a qualified voter is a person who is over the age of 21, meets the residency requirements and who applies for registration and who gets a registration application and merely files it with the Registrar. If the registrant misspells his own name, computes his age wrongly, or has a handwriting which could not be read, **he will still become a qualified registered voter.**

The judgment of the District Court insofar as it ignores the mistakes made on the card, by passing them over and calling them defects or deficiencies of a minor nature, is completely without merit and contrary to the holding of this Honorable Court, and the Supreme Court of the State of Louisiana. In effect, therefore, the judgment is wrong, because the District Court has indirectly overruled the holdings that literacy tests are valid. In effect, the District Court has overruled the requirement of completing the registration application. It is possible

under this judgment, that a blank registration card, which mentions only that the applicant for registration is a Negro, and containing his name, would not be subject to challenge, even if a mistake is patent on the face.

The Federal Court then assumes that it can judge the qualification of what it calls "approximately 1377 persons" who have been removed from the rolls under a challenging system, approximately from the date November 1, 1958, through July 1, 1959. The Court overlooked the fact that there is not **ONE IOTA** of evidence in connection with the total challenges of 1377 people, but only evidence dealing with 155 number of persons. The State of Louisiana wonders if the Court would want the Registrar of Voters to place back on the rolls of qualified voters any of the above individuals who may have had major errors in their registration forms. There is no evidence as to all of the 1377 individuals, they are not named—and not identified. There is no way of knowing whether the 1377 other people have died,—removed themselves from the State,—become incapacitated by committing a felony—or become insane or interdicted,—or in a charitable institution within the State of Louisiana,—or have received some disability through sickness or disease, which will require that they do something in addition to just merely being established as a registered voter by removing a card from one file into another. *Louisiana Revised Statutes Annotated*, Title 18, Section 42; *Louisiana State Constitution*, Article 8, Section 6.

It is submitted that the District Court has gone so far in their judgment that it is possible for anyone who only places his signature on an application for registration and indicated his race to become a registered voter.

It is inconceivable, after searching the record, how under the law and evidence presented the District Court arrived at the proposition that these parties were removed from the rolls of registered voters solely because they were of a particular color. Assuming, therefore, only for the sake of argument, that the Court had some bases for its judgment, under its holding, it would preclude anyone from challenging a person of the colored race. Under the judgment of the District Court, a Registrar would be precluded from challenging, or refusing to register a party even if a person made a mistake in his registration application.

In effect, the Court has stated to the Registrar of Voters for Washington Parish: YOU ARE NOT TO CHALLENGE ANY NEGRO WHO MAKES A MISTAKE IN HIS APPLICATION FOR REGISTRATION. It does not lend to the judgment for the District Court to say that these were "minor" mistakes because it then becomes a necessity for a Court of competent jurisdiction to determine what is minor and what is major.

The decree also effects registration of other people. Assuming that a white person comes into the registration office and miscalculates his age: Would the Registrar be able to (1) refuse to register him because of this mistake, or (2) refuse to accept any challenges later assuming that he was allowed to register with the mistake in the application, (3) and if he did issue a challenge since the Registrar is precluded from issuing a challenge against a Negro it would follow that the white person could come into Federal Courts, under the auspices of the United States Government, and seek an action against the Registrar, and assuming that the Court will follow the theory in the judgment by the District Court, the Registrar would then be

precluded from accepting the challenge of the individual white person because then he would be discriminating against a person in violation of the Fifteenth Amendment, based on his race or color.

The whole significant calculation therefore being that the Federal Court has herewith stated: That in Louisiana there shall be no challenging of any individual. While this matter is only affecting one parish within the State, at this time, it is easy to assume that if this broad judgment remains in existence every Parish within the State would be similarly effected.

The Federal Court, herein, has not really understood the facts of this case, and other cases involving discrimination in election suits. In the normally indicated election suits, the point at issue is usually some action taken by some person against a person who IS ALREADY A DULY QUALIFIED REGISTERED VOTER. In this case, however, those rights have not crystalized as yet, because the party involved has not become a qualified voter, or a voter who is "otherwise qualified by law". It is of no import to indicate that these people were at one time members of the qualified voting society, because they were not members in fact once they were challenged and removed from the record and rolls.

IN CONCLUSION.

Inasmuch as the persons on whose behalf the United States lodged this complaint have disqualified themselves under valid Louisiana registration laws by having failed to observe the conditions of registration, or by failing to correctly fill out their registration cards, or by not passing the literacy test, it should be declared that the Federal

Courts have no jurisdiction over them under the Civil Rights Act of 1957.

The Civil Rights Act of 1957, 42 U. S. C. 1971, F. L. 85-315, 71 Stat. 634, is too broad in its scope in allowing action by the United States against private persons and should be declared unconstitutional.

There has been no discrimination by the Defendant Registrar, Curtis M. Thomas, based on an abridgment of any rights of any individual, and it should be so declared.

The judgment of the U. S. District Court was erroneous in law and in fact and should be reversed.

CONCLUSION.

It is therefore submitted that this Court, insofar as Curtis M. Thomas, Registrar of Voters, is concerned, should dismiss the petition of the United States Attorney General and that the injunction or any other order issued by the District Court be recalled, set aside and vacated.

JACK P. F. GREMILLION,
Attorney General,
State of Louisiana,
Baton Rouge, Louisiana;
M. E. CULLIGAN,
Assistant Attorney General;
WELDON A. COUSINS,
Assistant Attorney General;
HENRY J. ROBERTS, JR.,
Assistant Attorney General,
301 Loyola Avenue,
Supreme Court Building,
New Orleans, Louisiana.

PROOF OF SERVICE.

This is to certify that I, Jack P. F. Gremillion, Attorney General of the State of Louisiana and a member of the bar of the United States Supreme Court, did this day of February, 1960, serve copies of the above and foregoing brief on appellants by placing same in the United States mail, air mail postage prepaid, addressed to the Solicitor General, Department of Justice, Washington 25, D. C.,

JACK P. F. GREMILLION

New Orleans, Louisiana.

APPENDIX.

LOUISIANA STATE CONSTITUTION 1921

1. Right to vote; qualifications of electors; registration

Section 1. **Right to vote.** After January 1, 1922, the right to vote in Louisiana shall not exist except under the provisions of this Constitution.

Citizenship and age. Every citizen of this State and of the United States, native born or naturalized, not less than twenty-one years of age, and possessing the following qualifications, shall be an elector, and shall be entitled to vote at any election in the State by the people:

(a) Residence. He shall have been an actual bona fide resident of the state for one year, of the parish one year, of the municipality in municipal elections four months, and of the precinct, in which he offers to vote, three months next preceding the election; provided, that removal from one precinct to another in the same parish shall not operate to deprive any person of the right to vote in the precinct from which he has removed until three months after such removal; provided, that removal from one parish to another shall not deprive any person of the right to vote in the parish from which he has removed for district officers to be elected in a district which includes the parish to which he has removed, or for state officers, whether the parish be in the same district or not, until he shall have acquired the right to vote for such officers in the parish to which he has removed. (This paragraph amended by Acts 1956, No. 601, adopted November 6, 1956.)

(b) Registration. He shall be, at the time he offers to vote, legally enrolled as a registered voter on his own personal application, in accordance with the provisions of this Constitution, and the laws enacted thereunder.

(c) Character and literacy. He shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government. He shall be able to read and write, and shall demonstrate his ability to do so when he applies for registration by making, under oath, administered by the registration officer or his deputy, written application therefor, in the English language, or his mother tongue, which application shall contain the essential facts necessary to show that he is entitled to register and vote, and shall be entirely written, dated, and signed by him, except that he may date, fill out, and sign the blank application for registration hereinafter provided for, and, in either case, in the presence of the registration officers or his deputy, without assistance or suggestion from any person or any memorandum whatever, other than the form of application hereinafter set forth; provided, however, that, if the applicant be unable to write his application in the English language, he shall have the right, if he so demands, to write the same in his mother tongue from the dictation of an interpreter; and, if the applicant is unable to write his application by reason of physical disability, the same shall be written at his dictation by the registration officer or his deputy, upon his oath of such disability.

Until and unless otherwise provided by law, the application for registration above provided for, shall be a copy of the following form, with the proper names

dates and numbers substituted for the blanks appearing therein, to-wit:

I am a citizen of the State of Louisiana. My name is Mr. , Mrs. , Miss . I was born in the State (or country) of , Parish (or county) of , on the day of , in the year . I am now years, months and days of age. I have resided in this State since , in this parish since , and in precinct No. , in Ward No. , since , and I am not disfranchised by any provision of the Constitution of this State.

Said applicant shall also be able to read any clause in this Constitution, or the Constitution of the United States, and give a reasonable interpretation thereof.

(d) Character and understanding. If he is not able to read or write, then he shall be entitled to register if he shall be a person of good character and reputation, attached to the principles of the Constitution of the United States and of the State of Louisiana; and shall be able to understand and give a reasonable interpretation of any section of either Constitution when read to him by the registrar, and he must be well disposed to the good order and happiness of the State of Louisiana and of the United States and must understand the duties and obligations of citizenship under a republican form of government.

(e) Identity. He must in all cases be able to establish that he is the identical person whom he represents himself to be when applying for registration, and when presenting himself at the polls for the purpose of voting in any election or primary election.

§ 2. Poll tax or registration

Section 2. (As amended Acts 1940, No. 374.) The right to vote at any election shall not be affected by any requirement for payment of a poll tax or for registration in a poll book in any form.

§ 3. Taxpayers as voters; qualifications; proxy voting

Section 3. (As amended Acts 1940, No. 374.) Upon all questions submitted to the taxpayers, as such, of any municipal or other political subdivision of this State, the qualifications of all such taxpayers as voters shall be those of age, residence and registration in the books of the Registrar of Voters, prescribed by this Constitution, without regard to sex, and there shall be no voting by proxy.

§ 4. Primary elections; conventions; fairness; qualifications of voters and delegates

Section 4. The Legislature shall enact laws to secure fairness in party primary elections, conventions, or other methods of naming party candidates. No person shall vote at any primary election or in any convention or other political assembly held for the purpose of nominating any candidate for public office, unless he is at the time a registered voter, and have such other and additional qualifications as may be prescribed by the party of which candidates for public office are to be nominated. And in all political conventions in this State the apportionment of representation shall be on the basis of population.

No person shall be chosen as a delegate by any political party in this State to represent such party in any

convention, local, State, or national, unless such delegate is a duly qualified elector under the provisions of this Constitution.

§ 5. Denial of registration; remedy; illegal registration; removal of names; prosecution

Section 5. Any person possessing the qualifications for voting prescribed by this Constitution, who may be denied registration, shall have the right to apply for relief to the district court having jurisdiction of civil causes for the parish in which he offers to register. Said court shall then try the cause, giving it preference over all other cases, before a jury of twelve, nine of whom must concur to render a verdict. This verdict shall be a final determination of the cause. The trial court may, however, grant one new trial by jury. In no cases shall any appeal lie or any other court exercise the right of review.

Any duly qualified voter of this State shall have the right to apply to the district court to have stricken off any names illegally placed or standing on the registration rolls of any parish within the jurisdiction of said court; such application shall be tried by preference before a jury of twelve, nine of whom must concur to find a verdict, and no appeal or right of review shall be granted to any party to said cause, except the party whose name is stricken from the registration rolls; this appeal to be returnable to the court of appeal having jurisdiction of appeals from such parish. The finding of said court of appeal shall be final, and the same shall not be reviewed by any other court. Such application and appeals herein above provided for shall be without cost.

The Legislature shall provide for the prosecution of all persons charged with illegal or fraudulent registration or voting or any other crime or offense against the registration, or election, or primary election, laws.

§ 6. Disqualification from voting or holding office

Section 6. (As amended Acts 1946, No. 388.) The following persons shall not be permitted to register, vote or hold office or appointment of honor, trust, or profit in this State, to-wit: Those who have been convicted of any crime which may be punishable by imprisonment in the penitentiary, and not afterwards pardoned with express restoration of franchise; those who are inmates of any charitable institution, except the Soldiers' Home; those actually confined in any public prison; all interdicted persons, and all persons notoriously insane or idiotic, whether interdicted or not.

The provisions of this Section concerning the right to register and vote shall not apply to inmates of the United States Marine Hospital No. 188 at Carville.

§ 16. Close of registration before election; transfers; new voters; changes of address in Orleans parish between first and second primaries

Section 16. (As amended Acts 1954, No. 766.) Electors shall not be registered within thirty days next preceding any election at which they may offer to vote, but application to the courts, and appeals, provided for

in this Constitution, may be heard and determined and revisions and transfer from precinct to precinct in the same parish may take place at any time prior to the election and no person, who in respect to age and residence would become entitled to vote within the said thirty days, shall be excluded from registration on account of his want of such qualifications at the time of his application for registration; provided that, in the Parish of Orleans the registrar is prohibited from making changes of addresses between the first primary and the second primary.

§ 17. Registration

Section 17. The Legislature shall provide for the registration of voters throughout the State.

§ 18. Registrars of voters; board of registration

Section 18. There shall be a registrar of voters for the parish of Orleans, who shall be appointed by the Governor, and one for each parish in the State, who shall be appointed by the police jury or other governing authority of such parish.

The Governor shall issue a commission to each registrar who shall thereupon make such bond, subscribe to such oath, and receive such compensation as the Legislature may prescribe; provided, that the State and the parish shall each pay one-half of such compensation.

The Governor, Lieutenant-Governor, and Speaker of the House of Representatives shall compose the Board

of Registration and any two members of same shall have power to remove, at will, any registrar in this State.

The first Registrar in each parish shall be appointed on or before December 15, 1921, and a new and complete registration shall be had under this Constitution in every parish beginning January 2nd, 1922.

Should a Registrar be not appointed by December 15, 1921, or any subsequent vacancy be not filled, within thirty days after its occurrence, by the above constituted authority, a majority of the Board of Registration shall appoint and the Governor shall commission a Registrar of Voters in each parish which has none.

No Registrar of Voters shall be elected or appointed to any other office within twelve months after vacating that of Registrar.

No other officer or person shall exercise any of the powers or duties of the Registrar of Voters after December 15th, 1921; provided, this shall not be construed to forbid the Legislature to authorize the appointment, by the Registrar, of deputy registrars.

§ 20. Right to serve as commissioner at polls

Section 20. The right of any person, who is a qualified voter, to serve as a commissioner at the polls in any election in this State shall not be abridged, and the fact that he so served shall not disqualify him from holding any position by election or appointment, whether State, municipal or other position.

LOUISIANA REVISED STATUTES TITLE 18

PART I. REGISTRARS AND DEPUTY REGISTRARS OF VOTERS

1. Registrar for each parish; appointment; tenure of incumbents; books and records; commission; bond and oath

A registrar of voters for the Parish of Orleans shall be appointed by the governor, by and with the advice and consent of the senate. One registrar for each of the other parishes of the state shall be appointed by the governing authority of the parish.

If any vacancy is not filled within thirty days after its occurrence by the above constituted authorities, a majority of the board of registration shall appoint, and the governor shall commission, a registrar in each parish in which there is none.

The governor shall issue a commission to each registrar, who shall thereupon make such bond, subscribe to such oath, and receive such compensation as is prescribed in this Chapter.

2. Qualification of registrars

Registrars shall be qualified voters of the parish in which they are to perform their duties and shall at all times during their incumbency be so qualified.

3. Tenure; removal from office; may not be own immediate successor

Registrars shall hold office during good behavior; provided that a majority of the board of registration may

remove at will any registrar. No registrar who has been removed from office may be reappointed as his own immediate successor.

§ 4. Qualification; date; duplicate oath; bond; approval of bond

All registrars shall qualify within thirty days from the date of their respective commissions, by filing duplicate oaths of office with the secretary of state and with the state auditor, and by filing a bond with security, with the state auditor for the faithful performance of the duties required of them, and for the payment of such damages as may be sustained by their failure to discharge their duties. The bond, except in the Parish of Orleans, shall be of five hundred dollars, in favor of the governor. The sureties on the bond shall be examined and approved by the judge of the district court in the respective parish and by the presiding judge of the civil district court in the Parish of Orleans. In the Parish of Orleans the bond, similarly conditioned, shall be of five thousand dollars, and shall be examined and approved by the presiding judge of the civil district court. Before beginning the performance of his duties, each registrar shall subscribe to the following:

"I, ..., do solemnly swear (or affirm) that I will support the constitution and the laws of Louisiana and that I will discharge and perform faithfully and impartially the duties incumbent upon me as registrar of voters for the Parish of , Louisiana, according to the best of my ability and understanding. So help me God."

§ 6.1 Political activities prohibited

No registrar of voters, deputy registrar, clerk or other employee of any registrar of voters shall, while holding office

(1) Directly or indirectly pay or promise to pay any assessment, subscription or contribution for any political organization or purpose, or solicit or take any part in soliciting any such assessment, subscription, or contribution, nor shall any person solicit any such assessment, subscription or contribution of any employee in the classified service.

(2) Be a member of any national, state, or local committee of a political party, or an officer or member of any faction, political club or organization, or a candidate for nomination or election to any public office, or make any political speech or public political statement in behalf of any candidate, faction or party as a part of any political campaign for the nomination or election of public officers, or take part in the management or affairs of any political faction or party or in any political campaign, except to exercise his right as a citizen to express his opinion privately, to serve as a commissioner at the polls in any election, and to cast his vote for whom he pleases. Added Acts, 1952, No. 334, Section 1.

§ 7. Removal of deputies, clerks, or employees; oaths; responsibility for acts or omissions

Unless otherwise provided by law, deputies, clerks, and employees appointed under this Part may be removed at will by the registrars appointing them. They shall be sworn by the registrars to the faithful performance of

their duties. The registrars are responsible for the acts, omissions, and faults of the deputies and employees employed by them.

§ 8. Deputy acting for registrar; administration of oaths

For the purposes of carrying out the provisions of the Constitution and of this Chapter, any deputy registrar provided for in this Chapter, when so authorized by the registrar, may act for and in the name and stead of any registrar by whom he is appointed.

Any registrar or deputy registrar may administer any oath required by this Chapter.

§ 31. Citizenship and residence requirements; age; character and education

Every citizen of the United States and of Louisiana, native born or naturalized, not less than twenty-one years of age who possesses the following qualifications, and who has complied with the provisions of this Chapter, shall be eligible for registration as a voter:

(1) He shall have been an actual bona fide resident of the state for two years, of the parish for one year, and of the municipality in municipal elections four months, and of the precinct in which he offers to register as a voter, three months next preceding any election.

(2) He shall be of good character, and shall understand the duties and obligations of citizenship under a republican form of government.

(3) Unless the applicant qualifies under the provisions of R.S. 18:36 he shall be able to read and write

and shall demonstrate his ability to do so when he applies for registration by making under oath administered by the registrar or his deputy written application thereof in the English language or in his mother tongue. This application shall contain the essential facts necessary to show that he is entitled to register, and shall be entirely written, dated, and signed by him, except that he may date, fill out, and sign the blank application for registration in the presence of the registrar or his deputy, without assistance or suggestions from any person or any memorandum whatever, other than the form of the application itself. If the applicant is unable to write his application in the English language, he shall have the right, if he so demands, to write it in his mother tongue from the dictation of an interpreter.

If the applicant is unable to write his application by reason of physical disability, it may be written at his dictation by the registrar or his deputy, upon the applicant taking oath before that officer of his disability or of his inability to write it in the English language.

(4) If the applicant is able to sign his name, he shall be required to do so; if not, he shall sign with his mark, authenticated by the registrar or deputy registrar, who shall then read the application to him, if necessary through an interpreter. The applicant, whether signing individually or by a mark, shall make affidavit to the truth of the fact therein stated.

(5) Whenever an applicant is unable to write his application by reason of physical disability or inability to write the English language as above set forth, he shall sign, or make his mark in the presence of witnesses to a

written affidavit stating the nature and extent of his physical disability or inability to write the English language which shall be signed individually if he be able to sign or by mark in the presence of two witnesses if he be unable to sign. No registrar or deputy registrar shall register any applicant under the provisions of this Section unless the applicant brings with him two qualified electors of the precinct in which he resides to sign written affidavits attesting the truth of the facts set forth in the application form LRIA and accompanying affidavit of physical disability, or inability to write the English language. A notation of the signing of the affidavit provided for in this Section shall be made on both the card of the applicant and the cards of the elector signing the affidavit under "Remarks". It shall be a violation of this Title for any elector to sign the affidavit to the application of more than two persons in any two year period.' Added Acts 1952, No. 498, § 1.

§ 32. Application for registration; form

The application blank for registration provided for in R.S. 18:31 shall be a copy of the following form:

"I am a citizen of the United States and of the State of Louisiana. My name is Mr. , Mrs. , Miss . I was born in the state (or country) of , Parish (or county) of , on the day of , in the year . I am now years, months, and days of age. I have resided in Louisiana since . in this parish since , and in Precinct No. , in Ward No. of this parish continuously since . I am not disfranchised by any

provisions of the constitution of this state. The name of the householder at my present address is . My occupation is . My color is . My sex is . I am not now registered as a voter in any other ward or precinct of this state, except . My last registration was in Ward , Precinct , Parish . I am now affiliated with the Party

Signature

Sworn to and subscribed before me:

(Deputy) Registrar."

The blank shall also be provided with an additional space in a form convenient for the notation thereon of:

(1) Changes of address of the applicant within the parish, as provided in this Chapter,

(2) Changes of name of the applicant as hereinafter provided in this Chapter and

(3) Remarks.

§ 33. Party affiliation; blank space not required to be filled; voting in primary; change in party affiliation

The applicant need not fill the blank space in the form required in R.S. 18:32 relating to party affiliation in order to be registered. Failure to do so, however, renders it unlawful for him to vote in any primary of any political party, so long as he has not declared his party affiliation.

However, any person may change his party affiliation by applying to the registrar, requesting in writing that the change be made. The registrar, upon such request, shall note the political party designated by the registrant in the proper column of the precinct register. Such change of affiliation in his registration does not permit the registrant to vote in any primary held by the political party to which he has changed his affiliation within six months of the change. During this period he may not vote in any primary held by the political party which he has renounced and abandoned.

Where a registrant has registered without declaration of party affiliation and afterwards desires to affiliate with some party, he shall cause the registrar to enter the party he selects in the proper column of the precinct register, by making written application to him to do so. The designation of party affiliation, in accordance with this paragraph renders the registrant eligible to vote in the party primary next following the designation. The registrar shall note in the precinct register the date of the change of party affiliation. As amended Acts 1952, No. 330, § 1.

§ 35. Ability to read and interpret constitution

Applicants for registration shall also be able to read any clause in the Constitution of Louisiana or of the United States and give a reasonable interpretation thereof.

§ 36. Inability of registrant to read or write; good character and reputation

If the registrant cannot read or write, he may register if he is a person of good character and reputation,

attached to the principles of the Constitution of the United States and of the State of Louisiana, and understands and can give a reasonable interpretation of any section of either constitution when read to him by the registrar or his deputy. He shall be well disposed to the good order and happiness of the State of Louisiana and of the United States and shall understand the duties and obligations of citizenship under a republican form of government. In such case the registrar or his deputy shall fill out at the dictation of the applicant the facts set forth in the blank application, which, when completed, shall then be read to him, and to which the applicant shall sign his name if able to do so, otherwise shall sign his mark, attested by the registrar or his deputy, and shall make affidavit to the truth of the facts therein set forth.

§ 37. Establishment of identity

The applicant shall in all cases be able to establish that he is the identical person whom he represents himself to be when applying for registration. If the registrar has good reason to believe that he is not the same person, he may require the applicant to produce two credible registered voters of his precinct to make oath to that effect.

§ 38. Foreign born applicants; proof of naturalization

An applicant of foreign birth shall in addition to the proof required by the provisions of this Chapter prove that he has been naturalized in conformity with the laws of the United States. As evidence thereof he shall produce, if he has never previously registered in the parish a certificate of naturalization, or a certified copy thereof, under the seal of the court in which the naturalization

took place, duly attested by the clerk of that court, and shall prove by affidavit of two qualified electors of his election precinct that he is the person named in the certificate and the person to whom it was issued.

If the foreign born applicant claims to be a naturalized citizen by reason of the naturalization of a parent or spouse in accordance with the laws of the United States, he shall, if he has not been previously registered in the parish, produce to the registrar the certificate of naturalization of the person, or a certified copy thereof, duly attested by the clerk of court in which the naturalization was had, together with the affidavit of two qualified electors of his election precinct that he is the person entitled to the privileges of naturalization under the certificate.

§ 39. Issuance of certificate of registration

After an applicant has fulfilled the requirements of the constitution and of this Chapter, and after the registrar has caused the precinct register to be signed by the applicant in the manner herein provided, he shall issue to the applicant a certificate of registration in the form provided in this Chapter, noting on the registrant's application the number of the certificate issued to him. However, in the Parish of Orleans the certificate of registration shall be sent by the registrar through the United States mails to the registrant at the place of residence designated.

§ 40. Personal appearance of applicant required

Every applicant shall appear personally before the registrar or his deputy at a designated place of registra-

tion and comply with the provisions of this Chapter. No applicant shall be otherwise registered by the registrar, or shall be allowed to register at any other place than permitted in this Chapter.

41. Change of name; affidavit; endorsement on registration certificate

A woman registered under the provisions of this Chapter who subsequently, by virtue of marriage or remarriage, changes her name, or any person who changes his name by virtue of a judgment of a competent court in accordance with the laws of this state shall, in order to remain a legal registrant, file with the registrar an affidavit setting forth the pertinent facts concerning the change of name. The registrar shall note on the original application and on the precinct register, in the "Remarks" blank provided therefor, the change of name, and shall endorse the change upon the registration certificate previously issued to the registrant, over the signature of the registrar or his deputy.

42. Ineligible persons

The following persons shall not be permitted to register or vote:

(1) Those who have been convicted of any crime punishable by imprisonment in the penitentiary, and have not afterwards been pardoned with the express restoration of the franchise;

(2) Those who are inmates of any charitable institution, except the Soldiers' Home and the United States Marine Hospital at Carville;

(3) Those actually confined in any public prison;

(4) All interdicted persons;

(5) All persons notoriously insane or idiotic, whether interdicted or not;

(6) Deserters from the military service of the United States or from the militia of the State of Louisiana, when called forth by the governor or, in time of invasion, insurrection, or rebellion, by the President of the United States, until they have returned to the command from which they deserted, made good the time lost in desertion, and served out the term of their original enlistment; and

(7) Persons dishonorably discharged from the Louisiana National Guard or from the military service of the United States, until reinstated.

§ 71. Parish of Orleans; office and office hours; Algiers office

A. In the parish of Orleans the registrar's office shall be on the ground floor of some building in the central business district of the city of New Orleans, as equally accessible to voters in all parts of the city as possible. All acts required by this Chapter for registration shall be done only in the office of the registrar.

In the parish of Orleans the registrar shall keep his office open daily, Sundays and legal holidays excepted, from 9:00 A.M. until 4:00 P.M. He shall, in addition, keep office open until 6:00 P.M. on one day of each week, to be specified in advance and publicly announced. For thirty days preceding the time for closing of the registra-

tions before an election, the office shall be kept open from 9:00 A.M. until 1:00 P.M. and from 2:00 P.M. until 8:00 P.M.

B. In the parish of Orleans the registrar shall maintain permanent office in the fifteenth ward of the city of New Orleans for the registration of voters. The city of New Orleans shall make an office available, without cost to the state, in the courthouse at Algiers, now housing the recorder's court of the fifteenth ward, on the ground floor of said building. This office shall be kept open on Wednesday, Thursday, Friday and Saturday of each week, legal holidays excepted, from 9:00 A.M. until 4:00 P.M. In addition, the registrar shall keep this office open until 6:00 on one of the above days, to be specified in advance and publicly announced. As amended Acts 1952, No. 206, § 1.

§ 72. Location of office at parish seat; office hours

In parishes other than the parish of Orleans the principal office of the registrar shall be in some suitable and proper location at the parish seat, to be designated by the governing authority of the parish.

In all such parishes containing municipalities of twelve thousand or over, the registrar or his assistant shall keep his office open daily, Sundays and legal holidays excepted, from 9:00 A.M. until 1:00 P.M. and 2:00 P.M. until 6:00 P.M. In all other parishes he or his assistant shall keep his office open for 40 hours of each week, including a Saturday, until the registration equals 90 per cent of the total previous registration, and after the registration exceeds 90 per cent of the total previous registra-

tion he or his assistant shall keep his office open three days, including a Saturday of each week. During a period of thirty days immediately preceding the closing of the registration prior to any general, special, or primary election, he or his assistant shall keep his office open daily, Sundays and legal holidays excepted. The office hours in any event shall be from 9:00 A.M. until 1:00 P.M. and from 2:00 P.M. until 6:00 P.M. It shall be lawful to register voters on Sundays. As amended Acts 1950, No. 15, § 3.

§ 73. Office on boat or water craft prohibited; penalty registration other than at office; notice; office at or near polling places; publication of list of places for registration; offices in municipalities; traveling expenses; time for registering

A. No registrar shall open his office on a boat or water craft. He shall remain in his office on the days and at the periods fixed by this Chapter, and such other days as are required by the parish governing authority, except when registering voters at other points in the parish, under the circumstances hereafter in this Section provided, and shall at no time go to unusual places under the pretense of affording an opportunity to voters to register. He shall remain in each appointed place during the full period named in a public notice, and shall not attend places to register voters of which he has not given notice, as required by this Chapter.

Whoever violates this prohibition shall be imprisoned for not less than sixty days nor more than six months.

B. In all parishes other than the parishes of Orleans, East Baton Rouge, and DeSoto, the registrar, in every year in which a general election is held or a primary election is held for state officers or Representatives to Congress may, seventy days before the closing of the registration, establish his office for at least one day at or near each polling place. Each year in which a municipal election is held he may, prior to the closing of registration, thirty days before the municipal primary, establish his office for at least one day in each municipality in the parish. However, he shall, during the last thirty days of the period, Sundays and legal holidays excepted, keep his office open as herein provided. During those sixty days he shall publish at the expense of the parish, in its official journal, a list of the places of registration and the length of time they shall remain open. If there is no official journal, the registrar shall post the list at or near the polling precinct.

C. In any parish containing a municipal corporation of more than two thousand persons when such parishes do not elect to come under the provisions of a permanent registration law the registrar or his duly appointed deputy shall establish an office in the municipal corporation twice each calendar year fo a period of not less than seven days in any two consecutive weeks, Sundays and legal holidays excepted, with office hours the same as prescribed in R.S. 18:72. The seven day period shall be at any time during the calendar year but at least thirty days before the closing of the registration, where the registration is required to be closed before an election, as provided in this Chapter.

D. No person may register within thirty days of any general or primary election held in the parish, pro-

vided that the registrar in the parish of Orleans be and he is hereby prohibited from making changes of addresses between the first and second primary. No act of any kind necessary or pertaining to the registration of voters shall be performed in any other place or in any other manner than as provided in this Chapter. As amended Acts 1952, No. 249, § 1; Acts 1954, No. 563, § 1.

§ 74. Branch office in Jefferson parish

A. The registrar of voters for the parish of Jefferson shall establish and maintain a branch office in one of the wards on the east bank of the Mississippi river in the parish of Jefferson for the registration of voters.

B. The police jury of the parish of Jefferson shall make an office available without cost to the state for the establishment and maintenance of said branch registration office. Acts 1950, No. 175, §§ 1, 2.

§ 91. Permanent records; card index of voters

Registrars shall keep the following in their principal offices, as permanent records:

(1) Original applications for registration, filed alphabetically; provided that the registrar, in the event of the erasure of a name, or the disqualification of a registrant, shall remove the original application of the registrant from the file, and shall place the original application of the disqualified voter in a separate file, to be designated as the "closed" or "disqualified" file;

(2) Originals of all affidavits made pursuant to any of the provisions of this Chapter;

(3) The original reports made by any person required by the provisions of this Chapter to make reports to the registrar;

(4) A register for each voting precinct in his jurisdiction, which shall be a permanent bound volume, containing blanks, numbered consecutively, and containing columns for the following information:

(a) The number of the certificate of registration issued to each registrant;

(b) The date of registration;

(c) The full name (given names and surname) of the registrant, his residence (street and municipal number, if any), age, color, sex, occupation; if employed, name of employer; where born; whether property owner, tenant, or boarder; party affiliation, if any; signature of registrant in his full given names and surname, if able to sign, otherwise, his full name aforesaid by his mark authenticated by the registrar or deputy;

(d) Remarks.

(5) A permanent original stub registration certificate book for each precinct, containing on stub and corresponding certificate, in form prescribed by the board of registration, the following information:

(a) The number of the registration certificate issued to the registrant, printed in red ink on the stub and corresponding certificate;

(b) Ward and precinct, printed in red ink on the stub and corresponding certificate;

(c) A blank for the full given and surnames of the registrant;

(d) A blank for the date of registration;

(e) A blank for the full signature of the given and surnames of the registrant, authenticated by the signature of the registrar on the certificate of registration issued to him.

The certificate shall also provide, on its reverse, a space in which may be endorsed by the precinct election officials a record of the fact that the voter has voted in each election, and the date thereof. In parishes other than the Parish of Orleans, the certificate need not be presented to the commissioners of election at the time the registrant offers himself as a voter, except when, through error, his name has been omitted from the official poll list.

(6) A duplicate stub certificate book, in which each certificate shall be plainly marked with the word "Duplicate" in contrasting color of ink, to be used by the registrar in furnishing duplicate certificates to registrants who have lost or accidentally destroyed the certificates originally issued to them;

(7) In addition to the records hereinabove specified, in the Parish of Orleans the registrar shall also make and keep a card index of voters, arranged according to wards, precincts, streets, and municipal numbers;

(8) A permanent record of all publications for erasures, giving the date of publication, and also, in the Parish of Orleans, a permanent record of publication of registrants, as provided for in R.S. 18:162.

92. Records open to inspection; copying, photographing, or photostating; charges

All of the above records are public records and shall at all times during office hours be open to inspection by any qualified registered voter. Upon the written application of twenty-five or more qualified registered voters of the parish, these records shall be open for copying, photographing, or photostating, unless such inspection, copying, photographing, or photostating will seriously interfere with the registration of voters, or otherwise seriously interfere with the performance of any duty of the registrar imposed upon him by law. If the registrar claims that such will seriously interfere, he shall arrange to permit such inspection after office hours, under the supervision of himself or of any deputy he designates and he shall afford opportunity and facilities for that purpose, if so requested, for at least four hours in any calendar day, Sundays and holidays excepted.

In the Parish of Orleans, when called on by twenty-five or more qualified registered voters to permit the photographing or photostating of any part of his records in accordance with this Section, the registrar may cause such photographic or photostatic copies of his records as called for by such voters to be made in his office, by his employees, and deliver them to the voters, certified to as a correct copy. Such photographing or photostating shall be done, if so requested, in the presence of a representative of the group of voters. The registrar shall make a charge for the copies, not in excess of the prevailing commercial rates in the community for such work. He may require, in advance of the work an amount approximating its estimated cost.

§ 93. Refusal or neglect to grant right of inspection; remedies

If the registrar fails or refuses to grant the opportunity and right provided in R.S. 18:92, the voters may apply by rule, without cost, to the district court having jurisdiction for a peremptory order to the registrar to permit such. The rule is returnable within forty-eight hours. The court shall hear the rule in a summary way and by preference, in term time or vacation, and shall decide it within twenty-four hours after submission.

If the court finds that the plaintiff in rule is entitled to the relief prayed for, it shall enter its order requiring performance on the part of the registrar, and shall hold the registrar in contempt if he does not comply within three days after the entry of the order. However, this civil remedy does not preclude any other civil remedy or criminal prosecution of the registrar as provided in this Chapter for such failure or refusal.

§ 94. Alteration, defacing, destruction, or removal of records; penalty

No registrar, deputy, clerk, or employee of any registrar, or any person having or having been given access to, or right of inspection, copying, or photographing of, any book, card, record, or other document pertaining to the registration of voters, shall illegally or improperly alter, add to, deface, destroy, or remove same from the custody of the registrar.

Whoever violates this Section shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned for not less than sixty days nor

more than six months, or both. However, nothing in this Section prevents a competent court from requiring, by proper order, the production by the registrar in court, in any proceeding pending therein, of any document, book, card, or record necessary and material, in the opinion of the court, to the determination of the proceeding; such documents do not become permanent Records of the Court, but shall be returned to the custody of the registrar immediately after inspection by the court. The court may require a photostatic copy thereof to be placed in the record.

§ 111. Criminal convictions; record and report by court clerks

The clerk of the district court of each parish and the clerk of the Criminal District Court for the Parish of Orleans shall each record in a book in his office immediately thereafter the sentence of every person for any crime punishable in the penitentiary, and on or before the tenth day of each calendar month shall furnish and deliver to the registrar, certified by his signature, a list of all such persons sentenced, giving their names, aliases, and addresses. The registrar shall at once erase from the precinct register the name of any such person who is a registered voter by drawing in red ink a line through the registration record, noting in the "remarks" column the date of the report. The person whose name is erased ceases to be a registered voter until his sentence is set aside, or he is pardoned with express restoration of the franchise.

§ 112. Report of deaths; procedure

The president, or in his absence or inability to act, the secretary of the State Board of Health shall likewise

report quarterly, on the twentieth day of the month following the end of each quarter-year, to the respective registrars, except the registrar of the Parish of Orleans, certified as correct over his signature, a list containing the names, addresses, and sex of all persons over twenty-one years of age who have died in the parish within the preceding quarter-year. The respective registrars shall at once investigate the facts, and after establishing the identity of those deceased shall, in the same manner, strike and erase those names from the precinct register, with notations as prescribed in R.S. 18:111.

In the Parish of Orleans the president, or in case of his absence or inability to act, the secretary of the Board of Health of the City of New Orleans shall likewise report, on the tenth of each month, to the registrar of the Parish of Orleans, certified as correct over his signature, a list containing the names, addresses, and sex of all persons over twenty-one years of age who have died in the parish within the preceding calendar month.

The registrar shall at once investigate the facts and, after establishing the identity of the deceased shall, in the same manner, strike and erase the names from the precinct register, with notation as prescribed in R.S. 18:111.

§ 113. Charitable institutions; report of list of inmates

The head officer of every charitable institution in the state, the Soldiers' Home, the United States Marine Hospital at Carville, and charity hospitals other than insane asylums excepted, shall likewise report quarterly, on the twentieth of the month following the end of the quarter-year, to the respective registrars, certified

as correct over his signature, a list containing the names, addresses, and sex of all inmates over twenty-one years of age admitted during the preceding quarter-year. The registrar shall then proceed as provided in R.S. 18:111.

§ 114. Apartment houses, hotels, lodging, rooming, or boarding houses; report of occupants; time for report

Any person in control of any apartment house, hotel, lodging, rooming, or boarding house wherein the registrar shall at any time find at least five persons registered therefrom shall within ten days after the written demand of the registrar, under oath to be administered by the registrar or some officer authorized by law to administer oaths, make a report showing the full given and surnames of all of the occupants over the age of twenty-one who have continuously resided therein for at least three months prior to the report. The registrar shall demand this report at least once in the calendar year, and in any event ninety days prior to any primary or general election.

§ 115. Penalty for failure to make report

Whoever fails or refuses to make the reports as provided in this Part shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned for not less than thirty days nor more than six months, or both.

§ 131. Canvass of names on precinct registers; police assistance; penalty

The registrar shall diligently, from time to time, and at least once in each calendar year, personally or through his deputies or inspectors or through the police

or other peace officers of the parishes or municipalities under his jurisdiction, canvass the names appearing on the precinct registers of his parish. For this purpose each registrar may require such police or peace authorities to make the canvass, and to make due report to him of their findings.

Any such officer so called upon or required who fails or refuses to perform such duty, and any officer or person designated for that purpose who wilfully or knowingly makes a false report, shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned for not less than sixty days nor more than six months, or both.

§ 132. Illegal or fraudulent registration; removal or other loss of right; cancellation of registration; affidavit; absence from state; erasure of name from precinct register

Whenever the registrar has reason to believe that any name upon the books of registration has been illegally or fraudulently placed therein, or that any person has lost the right to remain thereon, he shall immediately notify the person by mail, at his address appearing upon the precinct register, of the alleged irregularity in registration, sending with the notification a printed citation requiring the person to appear within ten days from the mailing of the notice and citation, which date shall be stated in the citation, to show cause why his name should not be erased from the precinct register. The registrar, as soon as at least six names have accumulated, or in any event within not more than five days after mailing the notification, shall publish a notice segregating such names by ward

and precinct, and requiring the registrants to appear in his office and prove the correctness of their registration. The publication shall appear in the official journal, and at the expense of the parish or municipality, as the case may be, for two consecutive days, except where no daily paper is published, in which latter case, one publication shall be sufficient, and if no paper is published in the parish, one publication in a newspaper of general circulation therein, provided no publication shall be made on a Sunday. The publication shall require the registrants to appear within three days of the last publication and prove the correctness of their registration. If the registrants fail to appear within three days from the date of last publication, or within ten days from the date of mailing of the notice, whichever date is later, the registrar shall at once cancel the names from the precinct register and make a note thereon of the date of cancellation. However, if the registrants appear in person within the time aforesaid, and proof is submitted by them in the form of an affidavit signed and sworn to before the registrar or his deputy by three bona fide registered voters of the parish, that such persons are legally entitled to remain on the books of registration, their names shall remain as voters on the precinct register, unless ordered erased therefrom by order of court, as provided in this Part.

The form of affidavit to be sworn to by the three bona fide registered voters shall read as follows:

"Personally came and appeared on this the ..... day of ....., 19 ..., before me, ... (Deputy) Registrar of Voters in and for the Parish of ....., State of Louisiana, ..., and ....., who being first duly sworn by me, do depose and say:

"That they are each personally acquainted with , registrant; that they have investigated the facts of the case, and of their own personal knowledge know that now resides at Street; Precinct No. , Ward No. of this Parish, and has continuously resided in that precinct and ward for the past months, and during that time has resided at the address aforesaid, and has resided in the Parish of for a period of ."

If any registrant has been continuously and actually absent from the state from a date prior to the date of the first publication aforesaid, the erasure of his name from the precinct register shall be suspended for a period of thirty days from the date of the first publication, if, prior to the expiration of the period allowed for his appearance, three bona fide registered voters of the parish make an affidavit to that effect before the registrar. The affidavit shall be in the following form:

"Personally came and appeared on this day of , 19 , before me (Deputy) Registrar of Voters in and for the Parish of , State of Louisiana, , and , who being first duly sworn by me, do depose and say:

"That they are each personally acquainted with , registrant; that they have investigated the facts of the case and of their own personal knowledge know that had been absent from the State of Louisiana since prior to the day of , 19 . and now is absent from the state; that of their personal knowledge , registrant, is a legally registered voter in Precinct No. , Ward No. , of this parish, at the address stated in the publication."

If the registrant does not appear and make this proof of his right to continue as a registrant within the thirty-day period, his name shall be erased by the registrar from the precinct register, and notation of the date of erasure shall be made thereon.

§ 133. Illegal registration or loss of right to vote; notice to registrant; erasure of name on failure to prove right

Upon an affidavit signed and sworn to in duplicate before and filed with the registrar or his deputy by any two bona fide registered voters of the parish, to the effect that after reasonable investigation and on information and belief certain persons are illegally registered, or have lost their right to vote in the precinct, ward, or parish in which they are registered by reason of removal or otherwise, the registrar shall immediately, or, in any event, within forty-eight hours, notify the registrants by mailing to them postage prepaid, at the addresses given in the precinct register, the duplicate copy of the affidavit, together with a printed citation requiring them to appear in person before the registrar or his deputy within ten days from date of the mailing of the duplicate affidavit and citation, which date shall be stated in the citation, and prove their right to remain on the registration rolls by affidavit of three bona fide registered voters in the form as provided in R.S. 18:132. The registrar shall immediately make a similar publication, as provided for in R.S. 18:132, and if the challenged registrants fail, within the same delays provided in that Section, to prove their right to remain on the rolls, as in that Section provided, the registrar shall erase their names from the precinct register.

§ 134. Refusal or failure of registrar to mail notice or erase name; summary court proceedings

Should the registrar fail or refuse to mail the notice, to make the publication, or to erase a name when by the provisions of this Chapter it becomes his duty to do so, the person making the affidavit may, by rule on the registrar returnable within forty-eight hours after service, excluding Sundays and legal holidays, apply to the district court for the parish, without cost, and cause the registrar to show cause why such should not be done. The rule shall be tried in a summary way and by preference, in term time or in vacation, and the court shall immediately upon conclusion of the hearing enter its order in the premises. If the rule is granted, it shall fix a period of not more than three days from the date of the order within which the registrar shall comply therewith, and failing in which the registrar shall be held in contempt of court and punished accordingly.

§ 135. New registration necessary after erasure of name

A person whose name has been erased as provided in this Part shall not be permitted to vote except upon a new registration properly made in accordance with the provisions of this Chapter.

§ 136. Removal from precinct or parish

The removal of a registrant from one precinct to another in the same parish does not deprive him of the right to remain as a legal registrant in the precinct from which he has removed until three months after the removal. The removal from one parish to another does not deprive any registrant therein of the right to remain as

a legal registrant in the parish from which he has removed, for the purpose of voting for district officers to be elected in a district which includes the parish to which he has removed, or for state officers, whether the parish is in the same district or not, until he has acquired the right to register and vote for such officers in the parish to which he has removed.

§ 137. Removal from ward or precinct; affidavit; change of registration records

By making affidavit of change of residence, giving date of removal to the registrar or his deputy, a registrant moving from one election ward or precinct to another in the same parish and therein continuously residing for three months shall have the registration records changed accordingly to correspond with his new residence, in the manner provided in R.S. 18:34.

§ 138. Denial of registration; remedies of applicant

Any person possessing the qualifications for voting prescribed by law who is denied registration may apply without cost for relief to the district court having jurisdiction of civil causes for the district in which he offers to register. The court shall then try the cause, giving preference over all other cases, before a jury of twelve, nine of whom must concur to render a verdict. This verdict is a final determination of the cause. The trial court may, however, grant one new trial by jury. In no case shall an appeal lie or another court exercise the right of review.

§ 161. Filing card indexes and other records

In the Parish of Orleans the registrar shall make and file in his office the card indexes and other records called for in Part IV of this Chapter within five calendar days, with respect to each registrant. In other parishes this shall be done within ten calendar days.

§ 162. Parish of Orleans; publication of names and addresses of registrants; expense

In the Parish of Orleans the registrar shall prepare and over his signature certify and cause to be published in the official journal of the City of New Orleans on the tenth of each month, unless this day is a Sunday, in which case on the following day, the names and addresses of all who have been registered during the preceding calendar month, arranged according to wards and precincts. The expense of publication shall be borne by the municipality, and annually budgeted by the municipality and paid for by it on the certificate or warrant of the registrar.

§ 163. Certified list of registered voters; filing; inspection

All registrars except the registrar for the Parish of Orleans shall file a complete certified list by ward and precinct of the registered voters of the parish contained in the office of the registrar with the clerk of the district court of the parish not later than twenty days prior to the date of any primary, general or special election. The list shall be open to the inspection of any qualified voter at all times. Copies and photostats thereof may be made by the voters.

§ 164. Loss or destruction of certificate of registration; duplicate certificate; oath of applicant

Registrars shall issue duplicate certificates of registration at any time prior to a primary or general election to persons whose original certificates have been lost or destroyed, if the name of the person applying for the duplicate certificate is found on the precinct register and has not been cancelled for any cause, and if the applicant has subscribed to the following oath, to be administered by the registrar or his deputy:

"I do solemnly swear (or affirm) that I have been duly registered as a voter in Ward , Precinct , Parish ; that there has not been issued to me any certificate of registration in any other parish, ward, or precinct in this state that has not been erased and cancelled within the current period of registration; that my original certificate of registration has been lost or destroyed. So help me God."

The duplicate registration certificate shall bear the same number as the original and in other respects shall be the same, except that it shall be printed on paper of a different color. The word "Duplicate" shall be printed thereon. The registrar or his deputy issuing it shall mark the letter "D" in red ink to the left of the original certificate number on the precinct register, and shall also mark in red ink the letter "D" on the original stub of the original certificate book.

§ 165. Periodical registration

The new and complete registration had under the provisions of this Chapter in every parish, beginning Janu-

ary 2, 1941, remains in effect until December 31, 1948. On the second day of January, 1949, and every fourth year thereafter, registrars shall make a new and complete registration of the qualified voters in their parishes, and after December 31 of any four year period, all previous registrations are null, except as provided in Part X of this Chapter; provided, that the registration of all voters serving in any branch of the military (or naval) service, or auxiliaries thereto, as of December 31, 1952, is hereby extended until July 31, 1953, and the registration of such voters may be renewed for the remainder of the four year period, beginning January 1, 1953, in the manner hereinafter prescribed:

Each registrar, not later than January 31, 1953, shall mail, using P.O. Form 3547—Requested, postage prepaid, to each qualified elector of his parish serving in any branch of the military (or naval) service or auxiliaries thereto, who is registered as of December 31, 1952, at the last address of the registrant appearing on the registration record, a copy of his (or her) certificate of registration, in duplicate. If the registrant signed his registration application at the time that he registered, he shall sign each certificate of registration in the space provided for his signature, signing on both sides if a card with identical front and back is used.

(1) If the registrant did not sign his name at the time he registered, the registrar shall also mail with the certificate an affidavit to be signed by the witnessing commissioned officer. Such affidavit shall be in substantially the following form:

"I certify that appeared before me, the undersigned Officer, to mark his registration certificates; that he was unable to sign his name because of physical disability (or was unable to read and write), and that I assisted him and caused him to make his mark (X) on his registration certificates.

"This the day of , 1953.

(Name of Officer, Rank and Command)"

The registrant shall sign his mark on each certificate of registration in the space provided, making his mark on both sides if a card with identical front and back is used, and such mark shall be witnessed by any commissioned officer in authority over him who shall sign his name to the affidavit. By signing the certificates of registration with his name or mark, the registrant certifies to the truth and correctness of the information stated in the certificates. The registrant shall return the certificates of registration and the affidavit, if the registrant signed with his mark, to the office of the registrar, not later than July 31, 1953.

(2) With the certificates of registration, the registrar shall mail to each registrant who signed his name on his registration application, a return addressed envelope, postage prepaid and a notice reading substantially as follows:

"Your present registration is extended and continues in full force and effect. In order to avoid cancellation of your registration, however, it is necessary for you to comply with instructions contained in this letter.

"The registrar has certified that the enclosed Certificate of Registration, in duplicate, is a true and correct copy of your registration papers. There is a space for your signature on each certificate.

"Examine carefully these Certificates of Registration. By signing, you record your signature for identification purposes at the polls and you certify that the information, as stated in the certificates, is true and correct.

"If the information is true and correct, sign both Certificates of Registration and mail them to the Office of the Registrar so that they will be received by the Registrar not later than July 31, 1953.

"If the information is not true and correct, it will be necessary for you to appear in person at the Office of the Registrar and furnish the correct information.

"If the registrar does not receive your Certificates of Registration, properly signed, on or before July 31, 1953, your registration will be cancelled, and thereafter you will not be permitted to vote unless you appear in person and register at the Office of the Registrar.

"If, hereafter, you change your home address, you must notify the registrar in order to avoid cancellation of your registration."

With the certificates of registration, the registrar shall mail to each registrant who signed his mark on his registration application, a return addressed envelope, postage prepaid, and a notice reading substantially as follows:

"Your present registration is extended and continues in full force and effect. In order to avoid can-

cellation of your registration, however, it is necessary for you to comply with the instructions contained in this letter.

"The Registrar has certified that the enclosed Certificate of Registration, in duplicate, is a true and correct copy of your registration record. There is a space (or spaces) for you to sign your mark on each certificate.

"Have these Certificates of Registration read to you and be sure that you understand them fully. By signing your mark, you certify that the information, as stated on the certificates, is true and correct.

"If the information is true and correct, sign your mark on both certificates of registration in the presence of any commissioned officer in authority over you. You must then mail the Certificates of Registration and the enclosed affidavit signed by the commissioned officer, to the office of the Registrar so that they will be received by the Registrar not later than July 31, 1953.

"If the information is not true and correct, it will be necessary for you to appear in person at the office of the Registrar and furnish the correct information.

"If the Registrar does not receive your Certificates of Registration, signed with your mark and properly witnessed, on or before July 31, 1953, your registration will be cancelled, and thereafter you will not be permitted to vote unless you appear in person and register at the office of the Registrar.

"If, however, you change your home address, you must notify the Registrar in order to avoid cancellation of your registration."

(3) When the Registrar receives the Certificates of Registration signed by a registrant in the space reserved for his recorded signature, he shall compare this signature with the registrant's signature on file in the office of the registrar. If he is satisfied that the signature is in fact the signature of the registrant and that the information on the certificates has not been altered, he shall file the certificates in the appropriate registers. When the registrar receives the certificates of registration signed with the registrant's mark, the registrar, if satisfied that the certificates are properly witnessed as far as can be determined by its official endorsement, and that the information on the certificates has not been altered, shall file the certificates in the appropriate registers.

(4) Registrations shall be subject to cancellation as are hereinafter provided:

(a) If the Certificates of Registration mailed to a registrant are returned to the registrar by the post office because of inability to locate the addressee at the given address; or

(b) If the registrar, on or before July 31, 1953 does not receive from a registrant the Certificates of Registration mailed to such registrant; or

(c) If the registrar is not satisfied that registrant's signature on the Certificates of Registration is the registrant's signature; or

(d) If the registrar is not satisfied that a commissioned officer in authority over the registrant has properly witnessed and assisted, where the registrant has signed with his mark; or

(e) If the registrar has reason to believe that the information on the certificates of registration has been altered.

When the registrar determines that the registration of a registrant serving in any branch of the military (or naval) service or auxiliaries thereto is subject to cancellation for any of the foregoing reasons, he shall immediately notify the person by mail, postage prepaid, using P.O. Form 3547—Requested. In case the mailed certificates are returned to the registrar by the post office because of inability to locate the given addressee, or in case the registrar has not received by July 31, 1953, the certificates which were mailed to the registrant, the registrar shall mail the notice to the last address of the registrant appearing on the registration record.

Not later than September 30, 1953, the registrar shall publish the names and addresses of all registrants, segregated by ward and precinct, whose registrations are subject to cancellation for any of the foregoing reasons. This publication shall require the registrants listed therein to appear within ten days of the last publication and prove the correctness of their registration. The publication shall be made in the official journal, at the expense of the parish or municipality, as the case may be, and shall be published for two consecutive days, on the same two consecutive days on which the names cancelled for other causes are published, except where no daily paper is published, in which case one publication shall suffice. If no paper is published in the parish, one publication in a newspaper of general circulation shall be sufficient, provided that no publication shall be made on a Sunday.

If any such registrant fails to reply within thirty days from the date of the last publication, the registrar shall forthwith mark the registrant's name cancelled on the registration record. If a registrant replies within the time aforesaid, his registration shall remain in full force and effect upon his satisfying the registrar of the correctness of his registration or upon proving his right to remain registered, by an affidavit of three bona fide registered voters of the parish in the form set forth in R.S. 18:132; provided, that in any case the registrant shall affix his signature on a certificate of registration, in duplicate, one of which shall be marked "For Precinct Register" and the other "For Duplicate Precinct Register", in the space provided for his recorded signature, or if unable to sign his name, shall affix his mark in the presence of any commissioned officer in authority over the registrant.

(5) Nothing contained in this Section shall affect the right of a duly qualified voter to register by appearing in person at the office of the Registrar and complying with the provisions of this Title. As amended Acts 1952, No. 415, § 1.

§ 166. Poll list to be delivered by registrar; alphabetical arrangement; certification

All registrars except the registrar for the Parish of Orleans, within five days preceding any primary or general election, shall deliver to the chairmen of the respective parish committees, in case of primary elections, and within the same time to the board of supervisors of elections, in case of general elections, a poll list, alphabetically arranged, containing the names, addresses, age,

and sex of duly registered voters, with their registration certificate numbers, for each precinct within his jurisdiction, for use of the commissioners of the election. The list shall be certified over the signature of the registrar as showing all registrants in the precinct who are entitled to vote at the election. However, for a primary election, the poll list shall contain only the names and data above required of such voters as have affiliated with the party holding the primary. The poll list shall be securely wrapped and sealed by the registrar, and his certificate, as aforesaid, shall be pasted or attached to the outside thereof.

§ 169. Control and custody of registration books and other records

The books of registration, together with all the records, registry stub books, and all other books and paraphernalia used for the conduct of the registrar's office, shall at all times be kept under the control of and in the custody of the registrar at his principal office. They shall not be removed therefrom for any purpose except upon an order of a competent court, except the parish register and registration certificate books when these are necessary for the registration of voters, when registration is permitted at places other than at the central office.

§ 170. Close of registration; exceptions

Registrars shall close registration of voters thirty days prior to any primary or general election. No entries or changes in the books of registration shall be made thereafter, except for the following purposes:

(1) To carry into effect at any time prior to the date of the election the orders of the courts, in cases of applications and appeals heard and determined as provided for in this Chapter;

(2) To effect any transfer from precinct to precinct in the same parish, which transfers may be made at any time prior to the election, provided that in the Parish of Orleans, the registrar shall be prohibited from making such changes between the first and second primary;

(3) To issue duplicate registration certificates, which may be done at any time prior to the election;

(4) To effect cancellations and erasures, as required or authorized by this Chapter;

(5) To correct clerical errors. As amended Acts 1954, No. 562, § 1.

§ 191. Rules and regulations; board of registration; director and ex-officio secretary

A. Except as otherwise in this Chapter specifically provided, the board of registration shall prescribe by general rules and regulations duly promulgated the method of the administration of this Chapter, and the character and forms of record, affidavits, and other documents necessary or proper, in its opinion, to carry into effect the provisions of this Chapter, and shall file them in the office of the Secretary of State.

B. The office of director of registration is created. The director shall be a qualified elector, over thirty years of age. He shall be appointed by the board of registration and shall serve at the pleasure of the board. His

duties shall be to administer the rules and regulations of the board of registration and he shall perform such other duties in connection with the powers of the board of registration and the promotion of registration of the voters of the State as may be directed by it. His salary shall be sixty-six hundred dollars per annum. He shall ex-officio be secretary of the board of registration.

C. The registrars of voters shall forward to the director of registration copies of all reports made by them to the Secretary of State.

D. The legislature shall appropriate sufficient moneys for the salary of the director and the expenses of the offices of the director and the board of registration.

E. Service of the director as a registrar of voters shall be deemed creditable service in the application to him of any provision of the State Employees Retirement System, R.S. 42:541 through 42:672. As amended Acts 1950, No. 33, § 1.

§ 195. Report by registrar to Secretary of State; tabulated statement for legislature

The registrar of each parish, at least ten days before the general election, shall forward to the Secretary of State an accurate report of the number of male and female voters in his respective parish, the number of native and foreign born, and the number of white and colored voters, respectively, who write their names and the number of people who make their mark. The Secretary of State shall furnish the legislature a tabulated statement of the report, when called upon to do so.

§ 196. Mandatory duties of registrar; ministerial character; compelling performance by mandamus or other process; appeal

Whenever by any provision of this Chapter any duty is expressly imposed upon the registrar to do or to refrain from doing any act, the provisions of this Chapter shall, in that respect, be considered mandatory upon the registrar. The duties of the registrar, except in such Sections of this Chapter or of the constitution wherein there is a necessary inference to the contrary, are ministerial in character, and may be compelled at the suit of two or more qualified electors of the parish, by any district court having jurisdiction of the parties, by mandamus or other appropriate process or proceeding for relief. The proceeding shall be against the registrar as sole defendant, and may be instituted and prosecuted without cost in the district court. It shall be heard and determined by preference, in term time or in vacation. The costs of appeals shall be assessed against the losing parties, individually. The appellant shall give bond for a sum to be fixed by the court to cover all such costs. An appeal shall be filed in the proper appellate court within five days from the rendition of the judgment and shall be tried on the original records and by preference over all other cases whatsoever. The appellate court shall render its decision within twenty-four hours after submission.

Upon perfection of an appeal, the clerk of the district court shall immediately notify the appellate court in writing, and the appellate court shall immediately set the appeal down for hearing without waiting for the actual lodgment of the record. The appellate court shall hear and determine such appeals at the earliest practicable

moment. The chief justice if the appeal runs to the supreme court, or the presiding judge, if the appeal runs to one of the courts of appeal, shall convene the court at once, in special session if necessary to hear the appeal. No application for rehearing on the appeal shall be entertained, but the appellate courts may, upon their own motion correct manifest errors to which their attention is called.

§ 233. Personal appearance; place and method of registration

Every applicant shall appear personally before the registrar or his deputy at a designated place of registration and comply with the provisions of this Part. No applicant shall be otherwise registered by the registrar, or shall be allowed to register at any other place than permitted in this Part. Added Acts 1952, No. 415, § 2.

§ 235. Records

The several registrars in the parishes of the state shall keep permanent records in their principal offices in accordance with this Section. After August 1st, 1953, these records shall include a Master Record File, a Precinct Register and a Duplicate Precinct Register, and a Closed and Disqualified File.

Each applicant for registration, in addition to completing and signing his application for registration, shall affix his signature or mark, as the case may be, on the certificate of registration marked for precinct register and on the duplicate certificate of registration marked for duplicate precinct register, as provided in this Section.

(1) The Master File.

(A) The master file shall consist of all the original registration applications, as provided in R.S. 18:32, with all subsequent entries.

(B) Each applicant for registration shall affix his signature or mark, as the case may be, on his application for registration in the space provided for his signature.

(C) After a registrar is satisfied that an applicant for registration has fulfilled the requirements of the constitution and of this Chapter, the registrar shall accept the registrant's signed registration application, shall affix his signature in the space provided for the registrar's signature, and shall place the application in the master file.

(D) The master file shall be arranged alphabetically by surname for the parish. The name and address of the applicant shall be hand-printed or typed at the top margin of the application card to facilitate filing in the master file. Any other reasonable memoranda may be added which are necessary or convenient to enable the registrar to perform his duties in assorting or classifying the application forms.

(E) This master file shall constitute the central index file and shall remain at all times in the principal office of the registrar.

(2) The Precinct Register and the Duplicate Precinct Register.

(A) The precinct register and the duplicate precinct register shall consist of all accepted certificates of registration, which shall have been marked "For Precinct Register" and "For Duplicate Precinct Register", and filed for every precinct.

The certificates of registration shall be individual cards or loose-leaf pages designed for filing in a loose-leaf register which allows for the exposure of a visible margin on each card. The cards shall be of a uniform size and may be printed both sides the same, so that the card may be reversed when the columns for the voting record of the registrant are all filled, or when the spaces for change of address or political party are filled.

Each certificate shall contain spaces appropriately entitled for the entry of the following information:

(a) The voter's full name, including given name, the name or initial of other names, and the surname. The given name of a woman shall be preceded by the designation of Miss or Mrs. The signature of a married woman shall include her given name or names, her maiden name or the initial of her maiden name, and her husband's surname;

(b) The voter's place of residence and post office address in sufficient detail to identify it and to determine the registrant's voting precinct; the number or designa-

tion of the room, apartment or floor occupied by the voter if he does not claim the entire building as his residence;

(c) Changes of address or residence within the parish and the dates of all such changes;

(d) The ward and precinct in which such residence addresses are located;

(e) Changes of ward and precinct;

(f) Dates of commencing present period of residence in state and in parish;

(g) Name or initial of the political party with which the voter affiliates;

(h) Changes of political party with which the voter affiliates and the dates of all such changes;

(i) The date of registration and the recorded signature of the registrant, to be used for identification of the registrant at the polls;

(j) The voting record of the registrant, divided into columns for the date of election, the signature of the registrant, and the signature of the election commissioner if the signatures of the registrant and the commissioner are required by law and when personal identity is required, under the following headings:

1st Column: Date of Election

2nd Column: I affix my signature to identify myself as the same person who recorded his signature above and as duly registered and qualified to vote in election held on the date shown opposite my signature.

3rd Column: I, the undersigned commissioner, certify that this certificate of registration was signed in

my presence on the date indicated, that the signature was by me compared with the recorded signature above, and it being believed by me to be genuine, the registrant was permitted to vote.

(k) Descriptive data to facilitate identification of the voter, including date of birth, place of birth, mother's first or maiden name, color of eyes, sex, and race or color; occupation; and whether owner, tenant, boarder or other;

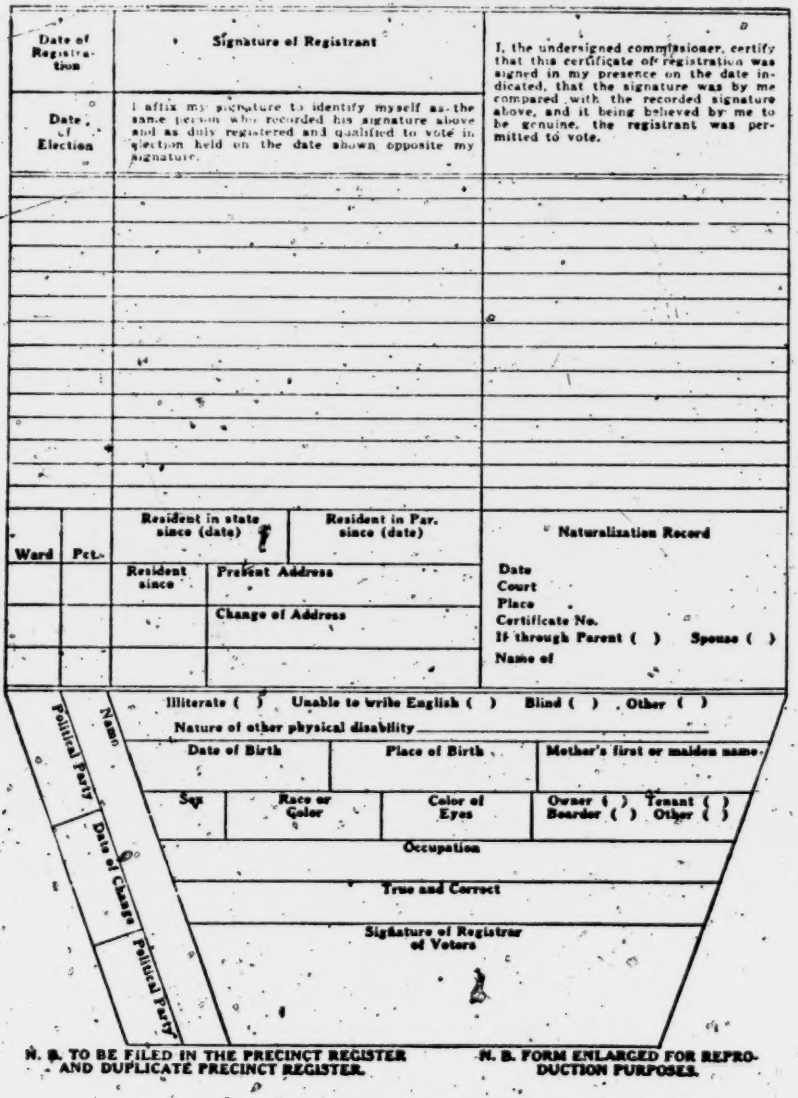
(l) Naturalization record, including date, court, place, certificate number, and if through parent or spouse, the name of parent or spouse;

(m) Whether the voter is illiterate, unable to write English, blind, or unable to write by reason of some other physical disability, and the nature of such other physical disability. Spaces for this information shall be provided on all cards for the sake of uniformity and economy in printing. However, in the event of the registration of a disabled or illiterate person under Section 1 of Article VIII of the Louisiana Constitution, cards of a distinctive color shall be used, one color to designate those registering as illiterate and another color to designate those registering as unable to write English, blind, or unable to write by reason of some other physical disability;

(n) Certification and signature of the registrar;

(o) The certificate of registration, both front and back, may be in substantially the following form:

CERTIFICATE OF REGISTRATION



N. B. TO BE FILED IN THE PRECINCT REGISTER AND DUPLICATE PRECINCT REGISTER.

N. B. FORM ENLARGED FOR REPRODUCTION PURPOSES.

(B) Each registrant shall affix his signature or mark, as the case may be, on the certificate of registration in the space provided for the registrant's signature, signing on both sides if a card with identical front and back

is used, and likewise on the duplicate certificate of registration. The registrant's signature is affixed on the certificates of registration for the purpose of comparison with the registrant's signature at the polls made before he is permitted to vote. Comparison of signatures shall be made in the presence and view of the commissioners or bystanders. If the applicant is unable to sign his name, he shall affix his mark and be identified by comparison with the descriptive information on the certificate of registration, in the presence and view of commissioners or bystanders, before he is permitted to vote.

(C) The registrar shall complete a certificate of registration in duplicate for each application, and shall certify that the information on the certificates of registration is true and correct by signing the certificates in the spaces provided for the registrar's signature, signing on both sides if a card with identical front and back is used. One such certificate shall be marked "For Precinct Register" and the other shall be marked "For Duplicate Precinct Register".

(D) The certificates of registration marked "For Precinct Register" shall be filed in the precinct register for the precinct for which the registrant is registered. The certificates of registration filed in the registers may be arranged in alphabetical order by surnames according to precincts, or, if desired, the certificates of registration may be arranged in alphabetical order by streets according to precincts. In addition, the certificates in each precinct file shall be separated according to party affiliation. The certificates of registration marked "For Duplicate Precinct Register" shall be filed by precincts so that,

when filed together for any precinct, the duplicate precinct register will be arranged in the identical order as the precinct register for any particular precinct. As amended Acts 1958, No. 506, § 1.

(E) The Precinct Register is the record used at the polls for identification and voting record, as provided in R. S. 18:238. The duplicate precinct register is the duplicate for reference or temporary use in case of loss, mutilation or destruction of the precinct register. The voting record of each registrant as entered on his precinct certificate shall be entered on his duplicate precinct certificate. It shall be the duty of the registrar, within three months after each election, to enter all voting records on the duplicate precinct registers.

(F) In the event that any part of an original precinct register should be lost or mutilated, the registrar shall substitute the duplicate precinct register certificates. He shall have photostats made of these particular certificates, shall append thereto his signature, and shall place the photostats in the duplicate precinct register. In the event that any part of a duplicate precinct register should be lost or mutilated, the registrar shall have photostats made from the original precinct register, shall append thereto his signature, and shall substitute the photostats for the lost or mutilated parts of the duplicate register.

In the event that both the original precinct registration card of any registrant and the duplicate substituted in the precinct register should become lost or mutilated, so that there remained only the photostatic copy, the registrar shall send to the registrant affected a postal card

notice, P.O. Form 3547—Requested, stating that the registrant must appear in person to sign a new certificate of registration. The registrant and registrar shall then proceed in accordance with the provisions of paragraphs 2 (C) and 2 (D) of this Section and the registrar shall file the photostatic copy in the permanent records. Should this occur immediately before an election, so that the registrar has insufficient time to place the original and duplicate certificates in the proper precinct binders, the registrar shall also issue to the registrant a special certificate. Such special certificate shall be good and valid only for the single election to which it is made applicable. The special certificate shall contain spaces for the signature of the voter, the signature of the registrar and the signatures of the voting commissioners in charge of the precinct register; and shall have written thereon "For use only in election of (date)," and above voter's signature "I am a registered voter in Parish," and above the commissioners' signatures "We certify that the applicant herein named voted". Upon voting, the registrant shall surrender the special certificate to the voting commissioners who shall deliver to the registrar all such special certificates along with the precinct register. When the special certificate is returned from the polls, the registrar shall enter on the new original certificate of registration the date of election on the voter's special certificate in the voting record column; shall sign his name in the space reserved for the commissioner's signature, writing the word "Registrar"; and shall write in the space reserved for the voter's signature the words "Special Certificate". The registrar shall enter the date of election on the duplicate certificate, as if the voter had regularly signed his certificate at the polls.

All such special certificates shall be filed in the permanent records.

(G) If, in the case of a registrant who signed his name at the time that he registered, all the spaces on the registration certificate for the voting record are filled, or the registrant has notified the registrar of a change of address or a change of political party and all such spaces are filled, the registrar shall mail, postage prepaid, under P.O. Form 3547—Requested, to each such registrant a new certificate in duplicate with all the information transcribed from the previous certificate, but only the last date voted recorded at the top of the date of election column and present address and present political party recorded. He shall notify the registrant that he must sign both certificates, signing on both sides of each certificate if a card with identical front and back is used, and should correct the information if any changes have occurred since his original registration as to occupation or owner-tenant-boarder status, and must return the certificate in duplicate by mail or in person, to be used in any succeeding election as long as the voter remains otherwise a qualified elector. Upon receipt of the returned signed certificates, if the registrar is satisfied that the signatures written thereon are genuine when compared with the registrant's signatures on the registration records, he shall sign the new cards, marking true and correct, and shall file the certificates in the proper registers.

If, in the case of a registrant who did not sign his name when he registered, all the spaces for the voting record are filled, or the registrant has notified the registrar of a change of address or change of political party and all

such spaces are filled, the registrar shall send to each such registrant a postal card notice, P.O. Form 3547—Requested, notifying him that he must appear in person to sign his mark on a new original and duplicate certificate of registration in accordance with the provisions of this Section, to be used in any succeeding election as long as he remains otherwise qualified to vote. If the registrant affixes his mark on a new original and duplicate certificate as provided in this Section, the registrar shall fill out and sign new certificates, including recording the present address, the present political party and the last election voted, and shall file the certificates in the proper register.

(H) When an affidavit signed by a voter and two commissioners as provided in R.S. 18:238 (5) is returned from the polls, the registrar, if he is satisfied that the signature is genuine when compared with the remaining registration records and that the voter is duly registered, shall notify the registrant, using P.O. Form 3547—Requested, to affix his signature to a new original certificate of registration for filing in the precinct register. After the voter has signed the new certificate, the registrar shall enter thereon the information on the duplicate certificate including the full voting record and the date of election on the voter's affidavit; shall sign his name in the space reserved for the commissioner's signature, writing the word "Registrar"; and shall write in the space reserved for the voter's signature the word "Affidavit". The registrar shall enter the date of the election on the duplicate certificate, as if the voter had regularly signed his certificate at the polls.

In case the duplicate certificate is also lost when such an affidavit is returned from the polls the registrar, using P.O. Form 3547—Requested, shall notify the registrant to affix his signature to both a new certificate of registration and a duplicate certificate, and shall fill out the certificates from the information on the registration application in the master file. The registrar shall enter the date of the election on the voter's affidavit on the first line in the voting record column; shall sign his name in the space reserved for the commissioner's signature, writing the word "Registrar", and shall write in the space for the voter's signature the word "Affidavit".

All such affidavits shall be filed in the permanent records.

If the registrar finds that the affiant is not a duly registered voter, he shall send notice, using P.O. Form 3547—Requested, to the affiant to appear within ten days to re-register.

(1) The precinct registers and the duplicate precinct registers shall be in loose-leaf binders equipped with a lock to guard against the unlawful moving or removal of the certificates filed therein. The registers shall be locked except when in active use. Each register shall be sealed before it is permitted to be removed from the office of the registrar.

(3) The Closed and Disqualified File.

The closed and disqualified file shall consist of the registration records of all registrations which have been cancelled for any cause. The registrar, in the event of the

cancellation of any name or the disqualification of any registrant, shall remove the registrant's record from the master file and the certificates of registration from the precinct registers shall place these registration records and certificates in a separate file to be designated as the "Closed and Disqualified File", which is to be filed alphabetically by the parish. Before placing these records in the "Closed and Disqualified File" the registrar shall mark in red ink the word "Cancelled", the date, the reason for the cancellation, and shall affix his signature. On the certificate of registration, the registrar shall make these notations in red ink as follows:

In the column headed "Date of Election", below the last recorded date, he shall write the word "Cancelled" and shall enter the date of cancellation. In the column reserved for the voter's signature at the polls, below the last signature, he shall enter the reason for the cancellation. In the column reserved for the commissioner's signature, below the last signature he shall affix his signature.

(4) Other Permanent Records.

The registrar shall keep a permanent record of all publications for cancellation, giving the date of such publication, and also, in the parish of Orleans, a permanent record of publication of registrants as provided in R.S. 18:162. The registrar shall also keep in his permanent records the original reports made by an officer or person required to make reports to the registrar, the originals of all affidavits made pursuant to any of the provisions of this Chapter, and special certificates. Added Acts 1952, No. 415, § 2.

§ 240. Registrar's duty to challenge for failure to vote

(1) In every parish in which the provisions of this Part are or shall become applicable, the registrar shall, by October 1, 1955, and at least annually thereafter, cancel from the rolls the name of each registrant who has not voted in either a primary or general election within the preceding four year period; except that in parishes containing cities of three hundred thousand population or more, the registrar shall, at least annually, cancel from the rolls the name of each registrant who has not voted in either a primary or general election within the preceding two year period, if the registrant is affiliated with a political party which regularly holds primaries. The name of each registrant who is not affiliated with a party holding a primary in parishes containing cities having a population exceeding three hundred thousand, shall be cancelled from the rolls if the registrant has not voted in a general election within the preceding four year period. In each case the registrant shall have been registered for the respective preceding two or four year period. As amended Acts 1958, No. 13, § 1.

(2) The registrar shall, by carefully inspecting the voting record of every voter, determine which registrations are subject to cancellation in accordance with the provisions of Sub-section (1) of this Section. If the registrar shall determine that any registration is subject to cancellation, he shall promptly notify the registrant by mail, using P.O. Form 3547—Requested, and otherwise, if necessary, to appear within ten days from the date of said notice, to show cause why his name should not be cancelled from the registration records. It shall also be the

duty of the registrar, as soon as at least six such names have accumulated, or in any event not more than seven days after mailing such notification, to publish a notice segregating such names by wards and precincts, and requiring such registrants to appear in his office and show cause why their names should not be cancelled from the registration records.

This notice shall be published in the official journal, at the expense of the parish or municipality, as the case may be, and shall be published for two consecutive days, except where no daily paper is published, in which case one publication shall be sufficient. When the official journal is a daily paper, the notices shall be published on the same two consecutive days of each week, the days to be designated by the registrar, provided that no publication shall be made on a Sunday. If no paper is published in the parish, one publication in a newspaper of general circulation therein shall be sufficient, provided that no publication shall be made on a Sunday. The published notices shall require the registrants to appear within three days of the last publication and prove their right to remain registered. If any such registrant fails to appear within three days from the date of the last publication or within ten days from the date of the mailing of the notice, whichever date is later, the registrar forthwith shall mark his name cancelled from the registration records and shall file the records in the "Closed and Disqualified File". If any such registrant appears within the time aforesaid and requests that his registration be reinstated, the registrar, if satisfied that the registrant has identified himself, will mark on the registration records the date and the word "Reinstated". Reinstatement shall have the

same effect as a new registration, except that notice of registration shall not be sent to the registrant as set out in R.S. 18:237(1).

(3) The cancellation of registration in accordance with this Section shall not affect the right of any person to register subsequently by personal application in the manner provided by this Title. Added Acts 1952, No. 415, § 2.

§ 244. Illegal or fraudulent registration; removal or other loss of right; cancellation of registration; affidavit; absence from state

Whenever the registrar has reason to believe that any name upon the registration records has been illegally or fraudulently placed therein, or that any person has lost the right to remain thereon, he shall immediately notify the person by mail, at his address appearing upon the registration records, of the alleged irregularity in registration, sending with the notification a printed citation requiring the person to appear within ten days from the mailing of the notice and citation, to show cause why his name should not be cancelled from the registration records. The registrar, as soon as at least six names have accumulated, or in any event within more than seven days after mailing the notification, shall publish a notice segregating such names by ward and precinct, and requiring the registrants to appear in his office and prove the correctness of their registration. The publication shall appear in the official journal, and at the expense of the parish or municipality, as the case may be, for two consecutive days, except where no daily paper is published, in which latter case, one publication shall be sufficient. When the official

journal is a daily paper the notices shall be published on the same two consecutive days of each week, the days to be designated by the registrar, provided that no publication shall be made on a Sunday. If no paper is published in the parish, one publication in a newspaper of general circulation therein shall be sufficient, provided no publication shall be made on a Sunday. The publication shall require the registrants to appear within three days of the last publication and prove the correctness of their registration. If the registrants fail to appear within three days from the date of last publication, or within ten days from the date of mailing of the notice, whichever date is later, the registrar shall at once cancel the names from the registration records as provided in R.S. 18:135. However, if the registrants appear in person within the time aforesaid, and proof is submitted by them in the form of an affidavit signed and sworn to before the registrar or his deputy by three bona fide registered voters of the parish, that such persons are legally entitled to remain on the registration records, their names shall remain as voters on the registration records, unless ordered cancelled therefrom by order of court, as provided in this Part.

The form of affidavit to be sworn to by the three bona fide registered voters shall read as follows:

"Personally came and appeared on this the day of , 19 , before me, (Deputy) Registrar of Voters in and for the Parish of , State of Louisiana, , and , who being first duly sworn by me, do depose and say:

"That they are each personally acquainted with , registrant; that they have investigated the facts

of the case, and of their own personal knowledge know that now resides at Street, Precinct No. , Ward No. , of this parish, and has continuously resided in that precinct and ward for the past months, and during that time has resided at the address aforesaid, and has resided in the Parish of for a period of ."

If any registrant has been continuously and actually absent from the state from a date prior to the date of the first publication aforesaid, the cancellation of his name from the registration records shall be suspended for a period of thirty days from the date of the first publication, if, prior to the expiration of the period allowed for his appearance, three bona fide registered voters of the parish make a written affidavit to that effect before the registrar. The affidavit shall be in the following form:

"Personally came and appeared on this day of , 19 , before me (Deputy) Registrar of Voters in and for the Parish of , State of Louisiana, and , who being first duly sworn by me, do depose and say:

"That they are each personally acquainted with , registrant; that they have investigated the facts of the case and of their own personal knowledge know that has been absent from the State of Louisiana since prior to the day of , 19 , and now is absent from the state; that of their personal knowledge , registrant, is a legally registered voter in Precinct No. , Ward No. , of this parish, at the address stated in the publication."

If the registrant does not appear and make this proof of his right to continue as a registrant within the thirty day period, his name shall be cancelled by the registrar from the registration records, as provided in R.S. 18:135. Added Acts 1952, No. 415, § 2.

§ 245. Illegal registration or loss of right to vote; notice to registrant; cancellation of name on failure to prove right

Upon a written affidavit signed and sworn to in duplicate before and filed with the registrar or his deputy by any two bona fide registered voters of the parish, to the effect that after reasonable investigation and on information and belief certain persons are illegally registered, or have lost their right to vote in the precinct, ward, or parish in which they are registered by reason of removal or otherwise, the registrar shall immediately, or, in any event, within forty-eight hours, notify the registrants by mailing to them postage prepaid, under P.O. Form 3547—Requested; at the addresses given in the registration records, the duplicate copy of affidavit, together with a printed citation requiring them to appear in person before the registrar or his deputy within ten days from the date of the mailing of the duplicate affidavit and citation, which date shall be stated in the citation, and prove their right to remain on the registration rolls by written affidavit of three bona fide registered voters in the form as provided in R.S. 18:132. The registrar shall immediately make a similar publication, as provided for in R.S. 18:132, and if the challenged registrants fail, within the same delays provided in that Section, to prove their right to remain on the rolls, as in that Section provided, the registrar

shall cancel their names from the registration records as provided by R.S. 18:135. Added Acts 1952, No. 415, § 2.

§ 246. Cancellation of registration

Whenever a registration is cancelled for any cause, the registrar shall mark on the registrant's master file record and precinct and duplicate precinct certificates of registration the word "Cancelled", shall state on these records the date and cause of cancellation, and shall affix his signature. After making these notations the registrar shall file the registrant's records in the "Closed and Disqualified File". After a registrant's registration has been cancelled he shall not be permitted to vote, except after a new registration, properly made in accordance with the provisions of this Title. Added Acts 1952, No. 415, § 2.

§ 252. Close of registration; exceptions

Registrars shall close registration of voters thirty days prior to any primary or general election. No entries or changes in the books of registration shall be made thereafter, except for the following purposes:

(1) To carry into effect at any time prior to the date of the election the orders of the courts, in cases of applications and appeal heard and determined as provided for in this Chapter;

(2) To change any address requiring transfer of registration from precinct to precinct in the same parish, provided that in the parish of Orleans, the registrar shall be prohibited from making such changes between the first and second primary;

(3) To issue special certificates when a registrant's certificate of registration has been removed illegally from the precinct register, lost, destroyed, or mutilated, as provided in R.S. 18:238.

(4) To effect cancellations, as required or authorized by this Chapter;

(5) To correct clerical errors. Added Acts 1952, No. 415, § 2, as amended Acts 1954, No. 564, § 1.

§ 337. Registration of voters; list of registered voters; photostatic copy of precinct register

No voter may participate in any primary under this Part who has not registered at least thirty days prior to the date of the primary. Seven days prior to every primary all registrars shall make a complete list of all registered voters in every voting precinct in the parish registered as affiliated with the party holding the primary, certify to same, and at least five days before the primary deliver the list to the respective parish committees of the party holding the primary, without any cost or charge whatever. The list shall not contain the name of any elector not affiliated with the party holding the primary. In the Parish of Orleans, the registrar, in lieu of furnishing a list of registered voters for each voting precinct, shall furnish a photostatic copy of the original precinct register for use at the polling places.

§ 341. Watchers; commission; penalties; electioneering; powers and duties; challenging vote

Watchers are commissioned in the same manner as commissioners and are subject to the same penalties

and punishment provided in this Part for failure to perform their duties. They shall be admitted within all parts of the polling place, the same as commissioners. Commissioners, alternate commissioners, and watchers shall not electioneer, engage in political or other discussions, or in any manner interfere with, detain or obstruct any voter. Watchers may remain within the polls after their closing, the same as commissioners, and remain there during the canvass and count of the vote, but shall take no part in the canvass and count nor have any voice in the conduct thereof. Commissioners and watchers, or any qualified voter, may challenge a voter for cause, and watchers shall call the attention of commissioners to any infraction of the law and may keep notes of the conduct of the election. The commissioners shall protect them in the discharge of their duties. Whoever violates this Section shall be punished as provided in R.S. 18:369.

§ 555. Commissioners and clerk; appointment; qualifications; apportionment

In every parish the board of supervisors shall, thirty days prior to any election, appoint three commissioners and one clerk to preside over the election at each polling precinct. They shall be qualified voters of the ward of which the polling precinct forms a part and shall be appointed from lists to contain not less than six names furnished by each political party. These lists shall be furnished to the board at least thirty-five days before the day of election. Any list offered after that date shall not be received, nor shall any such list be received or acted upon or recognized by the board of supervisors of election which shall contain the name of any person not registered as

affiliated with the party handing in the list. Insofar as is practicable, the commissioners shall be so apportioned as to represent equally all the political parties authorized to make nominations. The parish committee, subject to the approval of the state central committee of each political party, shall select the names which are to be sent to the board as provided herein. As amended Acts 1952, No. 439, § 1.

§ 582. Conditions precedent to voting; loss of registration certificate

Whenever any person offers to vote he shall give his name, residence, occupation, and registration paper, if such be required by law, to the commissioners, one of whom shall thereupon announce the same in a loud and distinct tone of voice, clear and audible. If the same are found upon the poll book by the commissioner having charge thereof, the latter shall, in a loud and distinct tone of voice, clear and audible, repeat the same, and the same being checked, the voter shall be allowed, his name being entered upon the poll list, to cast his vote.

In the Parish of Orleans, if a voter who has lost or mislaid his registration certificate presents himself and offers to vote, this right shall not be denied him, provided his name appears on the list and five qualified electors of the precinct join in an affidavit, sworn to before one of the commissioners, that the person offering to vote is the person whose name appears on the list. The affidavit shall be deposited in the ballot box and shall be preserved for six months by the clerk of court, as the basis of a prosecution of perjury if the affidavit is false.

The commissioners in charge of the poll list, the box, and the poll books, respectively, shall be of different political parties or factions, as far as is practicable.

§ 580. Challenge of right to vote

When in any election the right of any person offering to vote is challenged for any cause recognized by law, the commissioners shall require the name, occupation, age, and residence of the person offering to vote. The commissioners shall examine the person upon his oath, and if a majority of the commissioners then present are satisfied that the applicant is a legal voter of the ward and precinct, they shall permit him to vote. But in all cases the person must establish his identity and right to vote by the written affidavits of two bona fide residents of the ward and precinct, the affidavits to be taken before one of the commissioners and placed in the ballot box.

However, nothing in this Section permits commissioners to receive any vote which by law they are required to refuse.

Not more than one challenger for each political party or nominating body shall be permitted to remain just outside of the barrier of each polling place in a position to see plainly what is done within the barrier outside the voting booths, from the opening to the closing of the polls.

§ 1971. Voting rights—Race, color, or previous condition not to affect right to vote

(a) All citizens of the United States who are otherwise qualified by law to vote at any election by the people

in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

Intimidations, threats, or coercion

(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

Preventive relief; injunction; costs

(c) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by sub-section (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order.

In any proceeding hereunder the United States shall be liable for costs the same as a private person.

Jurisdiction; exhaustion of other remedies

(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

Contempt; assignment of counsel; witnesses

(e) Any person cited for an alleged contempt under this Act shall be allowed to make his full defense by counsel learned in the law; and the court before which he is cited or tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, who shall have free access to him at all reasonable hours. He shall be allowed, in his defense to make any proof that he can produce by lawful witnesses, and shall have the like process of the court to compel his witnesses to appear at his trial or hearing, as is usually granted to compel witnesses to appear on behalf of the prosecution. If such person shall be found by the court to be financially unable to provide for such counsel, it shall be the duty of the court to provide such counsel. As amended Sept. 9, 1957, Pub. L 85-315, Part IV, Sec. 131, 71 Stat. 637.

SUPREME COURT OF THE UNITED STATES

No. 667. October Term, 1959.

United States of America, Petitioner, v. Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana, et al.	On Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

[February 29, 1960.]

Per Curiam.

Pursuant to its order of January 26, 1960, the Court has before it (1) the application of the United States for an order vacating the order of the Court of Appeals, dated January 21, 1960, staying the judgment of the District Court for the Eastern District of Louisiana, New Orleans Division, dated January 11, 1960; and (2) the petition of the United States for a writ of certiorari to the Court of Appeals to review the judgment of the District Court as to the respondent, Curtis M. Thomas, Registrar of Voters, Washington Parish, Louisiana. Having considered the briefs and oral arguments submitted by both sides, the Court makes the following disposition of these matters:

The petition for certiorari is granted. Upon the opinion, findings of fact, and conclusions of law of the District Court and the decision of this Court rendered today in No. 64, *United States* v. *Raines*, the aforesaid stay order of the Court of Appeals is vacated, and the judgment of the District Court as to the respondent Thomas is affirmed.

It is so ordered.